

1 ROB BONTA
Attorney General of California
2 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
3 DIONNE MOCHON
Deputy Attorney General
4 State Bar No. 203092
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9012
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
10 **DIRECTOR OF THE DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
12 **STATE OF CALIFORNIA**

13
14 In the Matter of the Accusation Against:

15 **CREATIVE CAREER OPTIONS**
16 **19 Wimbledon Court**
Dana Point, CA 92629-4148

17 **Approval to Operate, School Code No.**
18 **25861237**

19 Respondent.

Case No. 1005741

OAH No. 2022110375

FIRST AMENDED ACCUSATION

20 **PARTIES**

21 1. Deborah Cochrane (Complainant) brings this Accusation solely in her official
22 capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of
23 Consumer Affairs.

24 2. On or about August 8, 2016, the Bureau issued Approval to Operate, School Code
25 Number 25861237, to Jorge Porta, dba Creative Career Options (Respondent). The Approval to
26 Operate expired on August 8, 2021, and has not been renewed.

27 ///

28

JURISDICTION

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

4. Section 118 of the Bus. & Prof. Code states in pertinent part:

...

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

(c) As used in this section, board includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'

5. Section 94875 states:

The Bureau for Private Postsecondary Education, as established by Section 6 of Chapter 635 of the Statutes of 2007, is continued in existence and shall commence operations. This chapter establishes the functions and responsibilities of the bureau, for the purposes of Section 6 of Chapter 635 of the Statutes of 2007. The bureau shall regulate private postsecondary educational institutions through the powers granted, and duties imposed, by this chapter. In exercising its powers, and 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.

6. Section 94893 states:

If an institution intends to make a substantive change to its approval to operate, the institution shall receive prior authorization from the bureau. Except as provided in subdivision (a) of Section 94896, if the institution makes the substantive change without prior bureau authorization, the institution's approval to operate may be suspended or revoked.

7. Section 94894 states:

The following changes to an approval to operate are considered substantive changes and require prior authorization:

///

1 (a) A change in educational objectives, including an addition of a new diploma
2 or a degree educational program unrelated to the approved educational programs
3 offered by the institution.

4 (b) A change in ownership.

5 (c) A change in control.

6 (d) A change in business organization form.

7 (e) A change of location.

8 (f) A change of name.

9 (g) A significant change in the method of instructional delivery.

10 (h) An addition of a separate branch more than five miles from the main or
11 branch campus.

12 8. Section 94936 states:

13 (a) As a consequence of an investigation, which may incorporate any materials
14 obtained or produced in connection with a compliance inspection, and upon a finding
15 that the institution has committed a violation of this chapter or that the institution has
16 failed to comply with a notice to comply pursuant to Section 94935, the bureau shall
17 issue a citation to an institution for violation of this chapter, or regulations adopted
18 pursuant to this chapter.

19 (b) The citation may contain any of the following:

20 (1) An order of abatement that may require an institution to demonstrate how
21 future compliance with this chapter or regulations adopted pursuant to this chapter
22 will be accomplished.

23 (2) Notwithstanding Section 125.9 of the Business and Professions Code, an
24 administrative fine not to exceed five thousand dollars (\$5,000) for each violation.
25 The bureau shall base its assessment of the administrative fine on:

26 (A) The nature and seriousness of the violation.

27 (B) The persistence of the violation.

28 (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.

...

(c)(1) The citation shall be in writing and describe the nature of the violation
and the specific provision of law or regulation that is alleged to have been violated.

///

1 (2) The citation shall inform the institution of its right to request a hearing in
writing within 30 days from service of the citation.

2 (3) If a hearing is requested, the bureau shall select an informal hearing
3 pursuant to Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1
4 of Division 3 of Title 2 of the Government Code or a formal hearing pursuant to
Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
Government Code.

5 (4) If a hearing is not requested, payment of the administrative fine is due 30
6 days from the date of service, and shall not constitute an admission of the violation
charged.

7 (5) If a hearing is conducted and payment of an administrative fine is ordered,
8 the administrative fine is due 30 days from when the final order is entered.

9 (6) The bureau may enforce the administrative fine as if it were a money
10 judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the
Code of Civil Procedure.

11 (d) All administrative fines shall be deposited in the Private Postsecondary
Education Administration Fund.

12 REGULATORY PROVISIONS

13 9. California Code of Regulations, title 5, section 75020 states, in part:

14 (a) The Bureau Chief, or his or her designee, or the Director's designee, is
15 authorized to issue citations containing orders of abatement and/or administrative
16 fines pursuant to section 94936 of the Code against approved private, postsecondary
institutions that have committed any acts or omissions that are in violation of the Act
or any regulation adopted pursuant thereto.

17 . . .

18 (c) In addition to the requirements of section 94936 of the Code, each citation
19 shall inform the cited institution or person that:

20 (1) if a hearing pursuant to the Administrative Procedure Act (APA) is not
21 requested, payment of the administrative fine is due 30 days from the date of service,
and shall not constitute an admission of the violation charged.

22 . . .

23 (3) if the cited institution or person desires an informal conference to contest
24 the finding of a violation prior to an APA hearing, the informal conference shall be
requested by written notice to the Bureau within 30 days from service of the citation;

25 (4) failure to comply with any order of abatement within the time set forth in
26 the citation, unless the citation is being appealed, may result in disciplinary action
being taken by the Bureau; and

27 (5) The Bureau may enforce the administrative fine as if it were a money
28 judgment pursuant to the California Code of Civil Procedure (beginning with section
680.010).

1 (d) Each citation shall be served on the cited institution or person, in person, or
2 by certified and regular mail at the address of record on file with the Bureau.
3 Citations served by certified and regular mail shall be deemed “served” on the date of
4 mailing.

5

6 10. California Code of Regulations, title 5, section 75040 states, in part:

7 (a) Pursuant to section 94936(c)(2) of the Code, a cited institution or person
8 may, within 30 days of service of the citation, request a hearing in writing to the
9 Bureau, or it is waived. In addition to contesting a citation by requesting a hearing,
10 the cited institution or person may, within the same 30 days, submit a written request
11 to the Bureau for an informal conference.

12 . . .

13 (g) If a written request for a hearing pursuant to section 94936(c)(2) of the
14 Code, or for an informal conference as provided in subsection (a), or both, is not
15 submitted to the Bureau within 30 days from service of the citation, the cited
16 institution or person is deemed to have waived the right to an informal conference
17 and/or administrative hearing.

18 11. California Code of Regulations, title 5, section 75050 states, in part:

19 . . .

20 (b) Failure of an applicant or institution issued an approval to operate to abate
21 the violation or to pay the fine within the time allowed is a ground for denial or
22 discipline of an approval to operate.

23

24 **COST RECOVERY**

25 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licensee found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

FACTUAL ALLEGATIONS

13 13. On or about December 29, 2020, the Bureau issued Citation Number 2021169 to
14 Respondent for failure to make student records immediately available to the Bureau upon request,
15 failure to inform the Bureau in writing of any change in information for agent of service within
16 seven days of the change, and failure to have personnel present during normal business hours to

1 allow the Bureau access to conduct an unannounced compliance inspection. The citation ordered
2 Respondent to submit established policy or procedures regarding the presence of personnel during
3 normal business hours and written submission of the institution's name, address, telephone
4 number, and email for the current agent for service of process. The citation issued an
5 Administrative fine of \$6,500.00. On or about January 11, 2021, Respondent paid the
6 administrative fine but failed to comply with the Order of Abatement.

7 14. On February 18, April 8, and May 5, 2021 the Bureau sent three consecutive demand
8 letters regarding the Order of Abatement. On July 6, 2021, the Bureau emailed Respondent
9 copies of the citation and demand letters. The Bureau instructed Respondent to reply by July 14,
10 2021. To date, Respondent has failed to comply with the Order of Abatement.

11 15. On or about July 29, 2006, the Bureau received an application from Jorge Porta,
12 seeking an approval to operate Creative Career Options, located at 19 Wimbledon Court in Dana
13 Point, California. The application listed the institution as an individually owned sole
14 proprietorship whose mission was to "offer educational programs." The application was signed
15 under penalty of perjury.

16 16. On or around October 20, 2009, Creative Career Options, Inc. filed Articles of
17 Incorporation with the Office of the Secretary of State of California. The business address was
18 identified as 19 Wimbledon Court, Dana Point, California, and the type of business was listed as
19 education. On or around September 10, 2012, the Bureau received Respondent's application for
20 renewal of Approval to Operate and Offer Educational Programs doing business as Creative
21 Career Options, located at 19 Wimbledon Court in Dana Point, California. The renewal
22 application listed the institution as an individually owned sole proprietorship and stated there was
23 no substantial changes to the organization and management or governing board and was signed
24 under penalty of perjury.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Failure to Abate Citation)**

27 17. Respondent is subject to disciplinary action under title 5, California Code of
28 Regulations, sections 75020, subdivision (c)(4) and 75050, subdivision (b), for failing to comply

1 with the Order of Abatement in Citation Number 2021169, issued by the Bureau on or about
2 December 29, 2020, as set forth in paragraphs 13 through 14 and incorporated herein.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Notify of a Substantial Change in Ownership and Business Organization)**

5 18. Respondent is subject to disciplinary action under California Education Code section
6 94893, in conjunction with Code section 94894, subdivisions (b) and (d), for failing to notify the
7 Bureau of a substantive change in ownership and business organization, as set forth in paragraphs
8 15 through 16 and incorporated herein.

9 **PRAYER**

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

13 1. Revoking or suspending Approval to Operate, School Code Number 25861237,
14 issued to Jorge Porta, dba Creative Career Options;

15 2. Ordering Jorge Porta to pay the Bureau for Private Postsecondary Education the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3; and,

18 3. Taking such other and further action as deemed necessary and proper.

21 DATED: 12/28/2022

22 “Original Signature on File”

23 DEBORAH COCHRANE

24 Chief

25 Bureau for Private Postsecondary

26 Education

27 Department of Consumer Affairs

28 State of California

Complainant

SD2021801951
83725638.docx