Business, Consumer Services and Housing Agency– Governor Gavin Newsom

Bureau for Private Postsecondary Education
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P.O. Box 980818, West Sacramento, CA 95798-0818
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: J C Truck Driving School LLC, Owner
J C Truck Driving School
722 Julie Ann Way
Oakland, CA 94621

INSTITUTION CODE: 82335603
CITATION NUMBER: 1920248
CITATION ISSUANCE/SERVICE DATE: March 6, 2020
DUE DATE: April 5, 2020
FINE AMOUNT: $ 10,050.00
ORDER OF ABATEMENT INCLUDED: Yes

Christina Villanueva issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Discipline Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to J C Truck Driving School LLC, Owner, of J C Truck Driving School (Institution) located at 722 Julie Ann Way, Oakland, CA 94621, pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violations described below.

BACKGROUND

In accordance with CEC section 94934 and 5, CCR section 74110 (c) and (d) an Institution shall file its annual report by December 1st of every year. As of November 14, 2019, the Bureau has not received an annual report for the 2017 calendar year from the Institution.

On December 20, 2018, the Bureau's Annual Report Unit (ARU) notified institutions by mail, to the addresses on record, informing them that the online portal to submit the 2017 Annual Report would be opening with an April 20, 2019 due date. On or about February 14, 2019, institutions were notified by mail, sent to the addresses on record, that the online portal was open. On April 18, 2019, ARU mailed reminder letters to the institutions, sent to the addresses on record, that the online portal opened January 16, 2019 and that submission deadlines were extended to May 16, 2019. On or about September 18, 2019, the institutions were notified by mail, sent to the addresses on record, that the 2017 Annual Report and/or its components had not been received by the Bureau. Institutions were provided with a deadline of October 10, 2019 to submit the 2017 Annual Report. As of November 14, 2019, the Institution has not submitted the Annual Report for the 2017 calendar year.

In addition, on November 18, 2019, Bureau staff attempted to schedule an announced Compliance inspection with the Institution and spoke to the Owner who stated that the Bureau had the incorrect

Institution address. The Owner provided Bureau staff with a mailing address to send all correspondence to. Bureau staff later determined that the correspondence was not received by the Institution.

On November 25, 2019, Bureau staff attempted to contact the Owner and did not receive a response. The Bureau was unable to conduct the announced inspection as the Institution was not responsive.

Additionally, all institutions are required to submit a Student Tuition Recovery Fund (STRF) Assessment Reporting Form to the Bureau no later than the last day of the month following the close of the quarter.

Pursuant to CEC section 94923(a) The Student Tuition Recovery Fund relieves or mitigates economic loss suffered by a student while enrolled in an institution not exempt from this article pursuant to Article 4 (commencing with section 94874), who, at the time of his or her enrollment, was a California resident or was enrolled in a California residency program, prepaid tuition, and suffered economic loss.

The Bureau sends notifications/reminders to all approved institutions 30 prior to close of each quarter.

As of March 6, 2020, the Institution has not submitted the STRF Assessment Reporting Forms for the 1st, 2nd, 3rd, and 4th quarter of 2018 and the 1st, 2nd, 3rd, and 4th quarter of 2019.

Furthermore, all institutions are required to pay annual fee within 30 days of the date on which the Institution originally receives its approval to operate and each year thereafter on the anniversary of the date of the original approval. An institution shall pay its annual fee in addition to any other applicable fees.

Pursuant to 5, CCR section 74006(a) and (b) and CEC section 94930.5 (d)(1)(A). An Institution shall submit to the Bureau an annual fee for each campus designated by the Institution as a main 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 thousand five hundred dollars ($2,500) and not to exceed sixty thousand dollars ($60,000).

As of March 6, 2020, the Bureau has not received the annual fee for the 2019 and 2020 calendar year from the Institution.

VIOLATION(S)

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5, CCR code) section(s) of law you are charged with violating.
1.	**Violation:** **5, CCR Section 74110 (a-d) – Annual Report** *"(a) The annual report required by section 94934 of the Code shall include the information required by section 94929.5 and 94934 for all educational programs offered in the prior calendar year. (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 enrollment agreement, and the school catalog". **CEC Section 94934(a)(1-9) - Annual Report** *"(a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:* *(1) The total number of students enrolled by level of degree or for a diploma.* *(2) The number of degrees, by level, and diplomas awarded.* *(3) The degree levels and diplomas offered.* *(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.* *(5) The school catalog, as required pursuant to Section 94909.* *(6) The total charges for each educational program by period of attendance.* *(7) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.* *(8) A statement indicating whether an accrediting agency has taken any final disciplinary action against the institution.* *(9) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter".* As of November 14, 2019, the Bureau has not received an annual report for the year 2017 from the Institution. **Order of Abatement:** The Bureau orders the Institution to submit its annual report in accordance with 5, CCR section74110 (a-d) and CEC section 94934(a)(1-9). The Institution shall submit the following: **2017 Annual Report** • Complete and submit the 2017 Annual Report via the Bureau's Online Annual Report Submission Portal website at https://bppe.ca.gov/annual_report/. • A hard copy of the financial statements for year-end 2017 must be submitted via regular mail to the Bureau for Private Postsecondary Education, P.O. Box 980818, West Sacramento, CA 95833. **Assessment of Fine** The fine for this violation is $5,000.00
2.	**Violation:** **CEC Section 94932 – Enforcement Authority** *"The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor 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." The Institution failed to cooperate with the Bureau as they failed to make itself available for a required announced Compliance inspection. **<u>Order of Abatement:</u>** The Bureau orders the Institution to submit a policy, or procedure, of how future compliance with CEC Section 94932 will be maintained. **<u>Assessment of Fine</u>** The fine for this violation is <u>$5,000.00</u>
3.	**<u>Violation:</u>** **5, CCR Section 76130 (a-e)– Collection and Submission of Assessments** *"(a) 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.* *(b) A qualifying institution shall complete the STRF Assessment Reporting Form (Rev. 2/10) 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,* *(2) July 31 for the second quarter,* *(3) October 31 for the third quarter, and* *(4) January 31 for the fourth quarter. If the due date falls on a Saturday, Sunday or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.* *If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.* *(c) The STRF Assessment Reporting Form shall contain the following information:* *(1) Total number of students who signed enrollment agreements for educational programs during the reporting period; and* *(2) Total number of students eligible for STRF who signed enrollment agreements for educational programs during the reporting period; and* *(3) The total number of students who signed their enrollment agreement during the reporting period, were eligible for STRF, and who made their first payment during the reporting period; and* *(4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and* *(5) Total amount of institutional charges after rounding each student's institutional charges to the nearest $1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and* *(6) Current contact telephone number of the person preparing the form; and* *(7) A declaration dated and signed under penalty of perjury by the person preparing the form that the form and any attachments are true and correct.* *(d) In the event of a school closure, any collected assessments shall be remitted to the Bureau within seven days following the cessation of instruction.* *(e) Submission of all prior reports and assessments required by this section is a condition of renewal."* The Institution has failed to submit STRF Assessment Reporting Forms for the following quarters: • First, Second, Third, and Fourth Quarters of 2018; and

	• First, Second, Third, and Fourth Quarters of 2019. On April 3, 2018, the Institution was notified via mail at 1846 5th Avenue, Apartment A, Oakland, CA 94606, that the STRF Assessment Reporting Form for the 1st quarter of 2018 was due. As of March 6, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution. On June 18, 2018, the Institution was notified via mail at 1846 5th Avenue, Apartment A, Oakland, CA 94606, that the STRF Assessment Reporting Form for the 2nd quarter of 2018 was due. As of March 6, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution. On September 18, 2018, the Institution was notified via mail at 1846 5th Avenue, Apartment A, Oakland, CA 94606, that the STRF Assessment Reporting Forms for the 3rd quarter of 2018 was due. As of March 6, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution. On December 20, 2018, the Institution was notified via mail at 1846 5th Avenue, Apartment A, Oakland, CA 94606, that the STRF Assessment Reporting Form for the 4th quarter of 2018 was due. As of March 6, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution. On March 27, 2019, the Institution was notified via mail at 1846 5th Avenue, Apartment A, Oakland, CA 94606, that the STRF Assessment Reporting Form for the 1st quarter of 2019 was due. As of March 6, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution. On June 24, 2019, the Institution was notified via mail at 1846 5th Avenue, Apartment A, Oakland, CA 94606, that the STRF Assessment Reporting Form for the 2nd quarter of 2019 was due. As of March 6, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution. On September 19, 2019, the Institution was notified via mail at 1846 5th Avenue, Apartment A, Oakland, CA 94606, that the STRF Assessment Reporting Form for the 3rd quarter of 2019 was due. As of March 6, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution. On December 19, 2019, the Institution was notified via mail at 1846 5th Avenue, Apartment A, Oakland, CA 94606, that the STRF Assessment Reporting Form for the 4th quarter of 2019 was due. As of March 6, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution. **Order of Abatement:** The Bureau orders the Institution to submit the delinquent STRF Assessment Reporting Forms as mentioned above. The information provided shall comply with "Record Keeping Requirements" Pursuant to 5, CCR section 76140. **Assessment of Fine** The fine for this violation is $50.00
4.	**Violation:** **5, CCR Section 74006(a) and (b) - Annual Fee**

	"(a) An institution's annual fee is due within 30 days of the date on which the institution originally receives its approval to operate and each year thereafter on the anniversary of the date of the original approval. (b) An institution shall pay its annual fee in addition to any other applicable fees. **CEC Section 94930.5 (d)(1)(A) and - Fee Schedule** *(d) (1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c), inclusive, each institution that is approved to operate pursuant to this chapter shall remit both of the following:* *(A)An annual fee for each campus designated by the institution as a main 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 thousand five hundred dollars ($2,500) and not to exceed sixty thousand dollars ($60,000).* **CEC Section 94931 (a)(b)– Late Payment** *"(a) A fee that is not paid on or before the 30th calendar day after the due date for the payment of the fee shall be subject to 25 percent late payment penalty fee."* *(b) A fee that is not paid on or before the 90th calendar day after the due date for payment of the fee shall be subject to a 35 percent late payment penalty fee."* The Institution has failed to pay its annual fee for calendar years 2019 and 2020. On January 2, 2019, the Institution was notified via mail (invoice #900339368) at 1846 5th Avenue Apartment A, Oakland, CA 94606, stating that the annual fee for calendar year 2019 was due on February 1, 2019. On March 19, 2019, the Institution was notified via mail (invoice #9003340138) at 1846 5th Avenue Apartment A, Oakland, CA 94606, stating that the annual fee for calendar year 2019 was due on February 1, 2019. On May 15, 2019, the Institution was notified via mail (invoice #900340138) at 1846 5th Avenue Apartment A, Oakland, CA 94606, stating that the annual fee for calendar year 2019 was due on February 1, 2019. As of March 6, 2020, the Bureau has not received the annual fee from the Institution. On January 2, 2020, the Institution was notified via mail (invoice #900347430) at 1846 5th Avenue Apartment A, Oakland, CA 94606, stating that the annual fee for calendar year 2020 was due on February 1, 2019. As of March 6, 2020, the Bureau has not received the annual fee from the Institution. **Order of Abatement:** The Bureau orders the Institution to submit its annual fees for calendar years 2019 and 2020 in accordance with 5, CCR section 74006(a)(b) and CEC section 94930.5(d)(1)(A) In addition, the Institution must pay all late payment penalty fees. **Assessment of Fine** The fine for this violation is $00.00
	TOTAL ADMINISTRATIVE FINE DUE: $10,050.00

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5, CCR sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **$10,050.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

COMPLIANCE WITH ORDER OF ABATEMENT

In accordance with the provisions of CEC section 94936 and 5, CCR section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference **and/or** Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference **and/or** an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference **and/or** an administrative hearing is signed by you and delivered to the Bureau by **April 5, 2020,** you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **March 6, 2020.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **April 5, 2020**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Gabriella Perez, Discipline Citation Program
Bureau for Private Postsecondary Education
1747 N. Market Blvd., Suite 225
Sacramento, CA 95834

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Gabriella Perez, Citation Analyst, at (916) 574-8969 or Gabriella.Perez@dca.ca.gov.

"Original signature on file" "3/6/2020"

Christina Villanueva
Discipline Manager

Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First-Class Mail