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

11 In the Matter of the Accusation Against:

Case No. 1000650

12 **SILICON VALLEY UNIVERSITY**
13 **2010 Fortune Drive**
14 **San Jose, CA 95131**

OAH No. 2018020561

FIRST AMENDED ACCUSATION

15 **Accredited Institution Approval to Operate**
16 **No. 4306571**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Dr. Michael Marion, Jr. (Complainant) brings this First Amended Accusation solely
21 in his official capacity as the Chief of the Bureau for Private Postsecondary Education,
22 Department of Consumer Affairs.

23 2. On or about March 12, 1999, the Bureau for Private Postsecondary Education granted
24 an Accredited Institution Approval to Operate to Silicon Valley University (Respondent). The
25 Accredited Institution Approval to Operate was in full force and effect at all times relevant to the
26 charges brought herein, with the exception of the first cause for discipline (failure to maintain
27 accreditation.) The Accredited Institution Approval to Operate expired effective December 7,
28

1 2017. Before it expired, Respondent's Accredited Institution Approval to Operate permitted it to
2 teach the following programs:

- 3 - Bachelor of Business Administration and Management
- 4 - Bachelor of Computer Engineering
- 5 - Bachelor of Computer Science
- 6 - Doctor of Computer Engineering
- 7 - Master of Business Administration
- 8 - Master of Computer Engineering
- 9 - Master of Computer Science
- 10 - English as a Second Language

11 JURISDICTION

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

15 4. Section 118, subdivision (b), of the Business and Professions Code provides that the
16 expiration of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary
17 action during the period within which the license may be renewed, restored, reissued or
18 reinstated.

19 STATUTORY & REGULATORY PROVISIONS

20 5. Section 94937, subdivision (a) of the Code states:

21 "(a) As a consequence of an investigation, which may incorporate any materials obtained or
22 produced in connection with a compliance inspection, and upon a finding that an institution has
23 committed a violation, the bureau may place an institution on probation or may suspend or revoke
24 an institution's approval to operate for:

25 "(1) Obtaining an approval to operate by fraud.

26 "(2) A material violation or repeated violations of this chapter or regulations adopted
27 pursuant to this chapter that have resulted in harm to students. For purposes of this paragraph,
28 "material violation" includes, but is not limited to, misrepresentation, fraud in the inducement of a

1 contract, and false or misleading claims or advertising, upon which a student reasonably relied in
2 executing an enrollment agreement and that resulted in harm to the student.”

3 6. Section 94885, subdivision (b) of the Code states:

4 “Except as provided in Section 94885.1, an institution offering a degree must satisfy one of
5 the following requirements:

6 “(1) Accreditation by an accrediting agency recognized by the United States Department of
7 Education, with the scope of that accreditation covering the offering of at least one degree
8 program by the institution.

9 “(2) An accreditation plan, approved by the bureau, for the institution to become fully
10 accredited within five years of the bureau’s issuance of a provisional approval to operate to the
11 institution. The provisional approval to operate to an unaccredited degree-offering institution
12 shall be in compliance with Section 94885.5.”

13 7. Section 94890 of the Code states:

14 “(a)(1) The bureau shall grant an institution that is accredited an approval to operate by
15 means of its accreditation.

16 ...

17 “(b) The term of approval to operate pursuant to this section shall be coterminous with the
18 term of accreditation. Upon renewal of the institution’s accreditation, the institution shall submit
19 verification to the bureau, on a form provided by the bureau, that the institution’s accreditation
20 has been renewed.”

21 8. Section 94900 of the Code states:

22 “(a) An institution shall maintain records of the name, address, e-mail address, and
23 telephone number of each student who is enrolled in an educational program in that institution.

24 “(b) An institution shall maintain, for each student granted a degree or certificate by that
25 institution, permanent records of all of the following:

26 “(1) The degree or certificate granted and the date on which that degree or certificate was
27 granted.

28 “(2) The courses and units on which the certificate or degree was based.

1 “(c) A student shall receive a copy of the signed enrollment agreement, in writing or
2 electronically, regardless of whether total charges are paid by the student.”

3 12. California Code of Regulations, title 5, section 75100, subdivision (a) states, in part:

4 “The Bureau may suspend, revoke or place on probation with terms and conditions an
5 approval to operate.”

6 13. California Code of Regulations, title 5, section 71710 states:

7 In order to meet its mission and objectives, the educational program defined in section
8 94837 of the Code shall be comprised of a curriculum that includes:

9 “(a) those subject areas that are necessary for a student to achieve the educational objectives
10 of the educational program in which the student is enrolled;

11 “(b) subject areas and courses or modules that are presented in a logically organized manner
12 or sequence to students;

13 “(c) course or module materials that are designed or organized by duly qualified faculty.
14 For each course or module, each student shall be provided with a syllabus or course outline that
15 contains:

16 “(1) a short, descriptive title of the educational program;

17 “(2) a statement of educational objectives;

18 “(3) length of the educational program;

19 “(4) sequence and frequency of lessons or class sessions;

20 “(5) complete citations of textbooks and other required written materials;

21 “(6) sequential and detailed outline of subject matter to be addressed or a list of skills to be
22 learned and how those skills are to be measured;

23 “(7) instructional mode or methods.

24 “(d) if degree granting, require research of an appropriate degree that utilizes a library and
25 other learning resources;

26 “(e) specific learning outcomes tied to the sequence of the presentation of the material to
27 measure the students' learning of the material; and

28 “(f) evaluation by duly qualified faculty of those learning outcomes.”

1 14. California Code of Regulations, title 5, section 71715 states, in part:

2 “(a) Instruction shall be the central focus of the resources and services of the institution.

3 “(b) The institution shall document that the instruction offered leads to the achievement of
4 the learning objectives of each course.

5 “(c) Direct instruction requires the physical presence of one or more students and one or
6 more faculty members at the same location. Direct instruction includes instruction presented in a
7 classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning
8 settings consistent with the mission, purposes, and objectives of the institution.

9 ...”

10 15. California Code of Regulations, title 5, section 71770 states:

11 “(a) The institution shall establish specific written standards for student admissions for each
12 educational program. These standards shall be related to the particular educational program. An
13 institution shall not admit any student who is obviously unqualified or who does not appear to
14 have a reasonable prospect of completing the program. In addition to any specific standards for an
15 educational program, the admissions standards must specify as applicable that:

16 “(1) Each student admitted to an undergraduate degree program, or a diploma program,
17 shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the
18 relevant examination as required by section 94904 of the Code.

19 “(2) Each student admitted into a post-baccalaureate degree program shall possess a
20 bachelor's degree or its equivalent. If a graduate program leads to a profession or an occupation
21 requiring state licensure and the licensing agency does not require that a member of the
22 profession or occupation possess a Bachelor's degree or its equivalent, this subdivision does not
23 apply.

24 “(b) The institution shall specify the maximum credit it will transfer from another
25 institution for each educational program, and the basis upon which the transferred credit will be
26 awarded.

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1 “(1) Except as limited by subdivision (c) of this section, a maximum of 75 percent of the
2 units or credit that may be applied toward the award of a bachelor's degree may be derived from a
3 combination of any or both of the following:

4 “(A) Units earned at institutions approved by the Bureau, public or private institutions of
5 higher learning accredited by an accrediting association recognized by the U. S. Department of
6 Education, or any institution of higher learning, including foreign institutions, if the institution
7 offering the undergraduate program documents that the institution of higher learning at which the
8 units were earned offers degree programs equivalent to degree programs approved by the Bureau
9 or accredited by an accrediting association recognized by the U.S. Department of Education;

10 “(B) Challenge examinations and standardized tests such as the College Level Placement
11 Tests (CLEP) for specific academic disciplines.

12 “(2) No more than 20% of graduate semester units or the equivalent in other units awarded
13 by another institution may be transferred for credit toward a Master's degree. An institution may
14 accept transfer credits only from the institutions of higher learning described in subsection (1)(A).

15 “(3) No more than 30 graduate semester credits or its equivalent awarded by another
16 institution may be credited toward a doctoral degree. This subdivision does not apply to graduate
17 programs that lead to a profession or an occupation requiring state licensure where the licensing
18 agency has a regulation permitting a different standard.

19 “(c) If credit for prior experiential learning is to be granted, the policy for granting such
20 credit shall be included in the institution's catalog.

21 “(1) An institution may grant credit to a student for prior experiential learning only if:

22 “(A) The prior learning is equivalent to a college or university level of learning;

23 “(B) The learning experience demonstrates a balance between theory and practice and;

24 “(C) The credit awarded for the prior learning experience directly relates to the student's
25 degree program and is applied in satisfaction of some of the degree requirements.

26 “(2) Each college or university level learning experience for which credit is sought shall be
27 documented by the student in writing.

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1 “(3) Each college or university level learning experience shall be evaluated by faculty
2 qualified in that specific subject area who shall ascertain (1) to what college or university level
3 learning the student's prior experience is equivalent and (2) how many credits toward a degree
4 may be granted for that experience.

5 “(4) The faculty evaluating the prior learning shall prepare a written report indicating all of
6 the following:

7 “(A) The documents in the student's record on which the faculty member relied in
8 determining the nature of the student's prior experience;

9 “(B) The bases for determining that the prior experience (i) is equivalent to college or
10 university level learning and (ii) demonstrates a balance between theory and practice; and

11 “(C) The bases for determining (i) to what college or university level the experience is
12 equivalent and (ii) the proper number of credits to be awarded toward the degree for that
13 experience.

14 “(5)(A) The institution shall designate at least one administrator to be responsible for the
15 review of faculty determinations regarding the award of credit for prior experiential learning.

16 “(B) The administrator shall document the institution's periodic review of faculty
17 evaluations to assure that the faculty written evaluations and awards of credit comply with this
18 section and the institution's policies and are consistent.

19 “(6) The amount of credit awarded for prior experiential learning shall not be related to the
20 amount charged the student for the assessment process.

21 “(7)(A) Of the first 60 semester credits awarded a student in an undergraduate program, no
22 more than 15 semester credits may be awarded for prior experiential learning.

23 “(B) Of the second 60 semester units (i.e., credits 61 to 120) awarded a student in an
24 undergraduate program, no more than 15 semester credits may be awarded for prior experiential
25 learning.

26 “(C) Of the first 30 semester credits awarded a student in a graduate program, no more than
27 6 semester credits may be awarded for prior experiential learning.

28

- 1 a. Respondent failed to maintain accurate records related to information contained on
2 School Performance Fact Sheets (SPFS) supporting data and Student Tuition Recovery
3 Fund (STRF) Assessment reporting forms.
- 4 b. Respondent failed to maintain complete student files.
- 5 c. Respondent submitted inaccurate 2016 STRF Assessment Reporting forms, in that it
6 submitted forms indicating that 11,423 students had signed Enrollment Agreements in
7 2016, when in fact, only 766 students had signed Enrollment Agreements in 2016,
8 according to supporting data provided by Respondent.

9 THIRD CAUSE FOR DISCIPLINE
10 (Requirements for Recruiters)
(Ed. Code, § 94901, subd. (a))

- 11 26. Respondent has subjected its approval to operate to disciplinary action for hiring
12 recruiters who were not employed by Respondent. (Ed. Code, § 94901, subd. (a).) In particular:
- 13 a. Respondent used recruiters who were employed by a company located in Taiwan and
14 not employed by Respondent.

15 FOURTH CAUSE FOR DISCIPLINE
16 (General Enrollment Requirements)
(Ed. Code, § 94902, subd. (a))

- 17 27. Respondent has subjected its approval to operate to disciplinary action for failing to
18 properly execute an Enrollment Agreement. (Ed. Code, § 94902, subd. (a).) In particular:
- 19 a. Respondent enrolled student V.P.¹ without executing an Enrollment Agreement signed
20 by its authorized representative.

21 FIFTH CAUSE FOR DISCIPLINE
22 (Educational Program)
(Cal. Code Regs., tit. 5, § 71710, subd. (b))

- 23 28. Respondent has subjected its approval to operate to disciplinary action for failing to
24 comprise a curriculum that includes subject areas and courses or modules that are presented in a
25 logically organized manner or sequence to students. (Cal. Code Regs., tit. 5, § 71710, subd. (b).)
26 In particular:

27 _____
28 ¹ Student initials are used herein to protect student privacy. Student names will be
provided pursuant to a discovery request.

- 1 a. Respondent's Program Objectives and Curriculum for its Masters in Science in
2 Computer Science (MSCS) Program listed 36 credit hours total. Of the 36 credit hours,
3 18 credits were for Science Graduate Core courses, and 18 were for elective courses.
4 None of the electives were listed for the Program Objectives and Curriculum, and
5 Respondent therefore did not demonstrate that the program and its subject areas and
6 courses were presented in a logically organized manner or sequence.

7 SIXTH CAUSE FOR DISCIPLINE

8 (Educational Program)
9 (Cal. Code Regs., tit. 5, § 71710, subd. (c)(7))

10 29. Respondent has subjected its approval to operate to disciplinary action for failing to
11 provide each student with a syllabus or course outline that contains the course's instructional
12 mode or methods. (Cal. Code Regs., tit. 5, § 71710, subd. (c)(7).) In particular:

- 13 a. The syllabi for Respondent's MSCS program did not include the program's
14 instructional mode or method.

15 SEVENTH CAUSE FOR DISCIPLINE

16 (Educational Program)
17 (Cal. Code Regs., tit. 5, § 71710, subd. (e)-(f))

18 30. Respondent has subjected its approval to operate to disciplinary action for failing to
19 comprise a curriculum that includes specific learning outcomes tied to the sequence of the
20 presentation of the material to measure the students' learning of the material, and evaluation by
21 duly qualified faculty of those learning outcomes. (Cal. Code Regs., tit. 5, § 71710(e)-(f).) In
22 particular:

- 23 a. Respondent's "Program Objectives and Curriculum" lacked specific learning outcomes
24 tied to the sequence of the presentation of the material and how those learning outcomes
25 would be evaluated by duly qualified faculty.

26 EIGHTH CAUSE FOR DISCIPLINE

27 (Admission Standards)
28 (Cal. Code Regs., tit. 5, § 71770, subd. (a))

31. Respondent has subjected its approval to operate to disciplinary action for failing to
establish and/or adhere to specific written standards for student admissions for each educational
program, and for admitting students who are obviously unqualified or who do not appear to have

1 a reasonable prospect of completing the program. (Cal. Code Regs., tit. 5, § 71770, subd. (a).) In
2 particular:

- 3 a. Respondent had an admission requirement that all international students must
4 demonstrate that they are English proficient by taking either a Test of English as a
5 Foreign Language (TOEFL) or an English placement test. Respondent also had a policy
6 which permitted students who were not English proficient to enroll in English as a
7 Second Language (ESL) courses simultaneous to taking coursework related to a degree.
8 However, Respondent permitted students who were not English proficient to take
9 degree related coursework taught solely in English, without concurrently taking ESL
10 classes.

11 NINTH CAUSE FOR DISCIPLINE

12 (Admission Standards and Transferred Credits Policy)
13 (Cal. Code Regs., tit. 5, § 71770, subd. (b)(2))

14 32. Respondent has subjected its approval to operate to disciplinary action for failing to
15 comprise a curriculum that limited transfer credits from other institutions to 20% of total degree
16 credits. (Cal. Code Regs., tit. 5, § 71770, subd. (b)(2).) In particular:

- 17 a. Respondent permitted at least one student to apply nine transfer credits to his MSCS,
18 which required 36 credits. 20% of 36 credits would have been a maximum of 7.2
19 credits. Additionally, Respondent's 2017 Catalog listed the transfer credit policy as
20 permitting the transfer of nine credits for a 36 credit Master's Program, which is in
21 excess of 20%.

22 TENTH CAUSE FOR DISCIPLINE

23 (Catalog)
24 (Cal. Code Regs., tit. 5, § 71810, subd. (b)(10))

25 33. Respondent has subjected its approval to operate to disciplinary action for having a
26 catalog that failed to describe a library and other learning resources, and the procedures for
27 students to access those resources. (Cal. Code Regs., tit. 5, § 71810 (b)(10).) In particular:

- 28 a. Respondent's 2017 Catalog did not contain the procedures for students to follow in
order to access the library and other learning resources.

ELEVENTH CAUSE FOR DISCIPLINE

(Student Records)
(Cal. Code Regs., tit. 5, § 71920, subd. (b)(1)(A))

1
2 34. Respondent has subjected its approval to operate to disciplinary action for failing to
3 maintain the following pertinent student records: written records and transcripts of any formal
4 education or training, testing, or experience that are relevant to the student's qualifications for
5 admission to the institution or the institution's award of credit or acceptance of transfer credits
6 including verification of high school completion or equivalency or other documentation
7 establishing the student's ability to do college level work, such as successful completion of an
8 ability-to-benefit test. (Cal. Code Regs., tit. 5, § 71920, subd. (b)(1)(A).) In particular:

- 9 a. At least one student file did not contain documentation that the student had met an
10 English proficiency requirement such as TOEFL or International English Language
11 Testing System (IELTS) score or English Placement Test.

12 TWELFTH CAUSE FOR DISCIPLINE

(Required Institutional Records)

13 (Ed. Code, § 94900.5, subd. (c); Cal. Code Regs., tit. 5, §§ 71920, subd. (b)(3), 71930, subd. (a)-
14 (b)(1))

15 35. Respondent has subjected its approval to operate to disciplinary action for failing to
16 maintain, at its principle place of business for at least five years, student files containing all
17 documents signed by the student, including contracts, instruments of indebtedness, and
18 documents related to financial aid. (Ed. Code, § 94900.5, subd. (c); Cal. Code Regs., tit. 5, §§
19 71920, subd. (b)(3), 91730, subd. (a)-(b)(1).) In particular:

- 20 a. Several student files maintained by Respondent did not contain Enrollment Agreements.

21 THIRTEENTH CAUSE FOR DISCIPLINE

(Student Records)

22 (Ed. Code, § 94900.5, subd. (c); Cal. Code Regs., tit. 5, § 71920, subd. (b)(5)(E))

23 36. Respondent has subjected its approval to operate to disciplinary action for failing to
24 maintain student transcripts containing Respondent's name, address, website address, or
25 telephone number. (Ed. Code, § 94900.5, subd. (c); Cal. Code Regs., tit. 5, § 71920 (b)(5)(E).)

26 In particular:

- 27 a. Several student files maintained by Respondent in 2016 did not contain transcripts with
28 Respondent's name, address, website address, or telephone number.

1 FOURTEENTH CAUSE FOR DISCIPLINE

2 (Agents for Service of Process; Changes)
3 (Cal. Code Regs., tit. 5, § 74190)

4 37. Respondent has subjected its approval to operate to disciplinary action for failing to
5 notify the Bureau of its current agent for service of process. (Cal. Code Regs., tit. 5, § 74190). In
6 particular:

- 7 a. Respondent's agent for service of process, J.S., left Respondent in January, 2017. As
8 of March 8, 2017, Respondent had not notified the Bureau of a new agent for service of
9 process, and J.S. was still listed in the Bureau's records as the agent for service of
10 process.

11 FIFTEENTH CAUSE FOR DISCIPLINE

12 (Amount of STRF Assessment)
13 (Cal. Code Regs., tit. 5, § 76215)

14 38. Respondent has subjected its approval to operate to disciplinary action for failing in
15 its Enrollment Agreements to indicate that non-resident students of California are eligible for
16 protection under and recovery from the Student Tuition Recovery Fund (STRF) (Cal. Code Regs.,
17 tit. 5, § 76125). In particular:

- 18 a. Between 2010 and 2017, Respondent's Enrollment Agreements incorrectly provided
19 that only U.S. Citizens and U.S. Permanent Residents were eligible for protection under
20 and recovery from the STRF.

21 SIXTEENTH CAUSE FOR DISCIPLINE

22 (Collection and Submission of Assessments)
23 (Cal. Code Regs., tit. 5, §§ 76120, subd. (a), 76130, subd. (a)(1))

24 39. Respondent has subjected its approval to operate to disciplinary action for failing to
25 collect STRF assessments from non-resident students between 2010 and 2017. (Cal. Code Regs.,
26 tit. 5, §§ 76120, subd. (a), 76130, subd. (a)(1).) In particular:

- 27 a. Between 2010 and 2017, Respondent's Enrollment Agreements incorrectly provided
28 that only U.S. Citizens and U.S. Permanent Residents were eligible for protection under
and recovery from the STRF.

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PRAYER

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

1. Revoking or suspending or otherwise imposing discipline upon Accredited Institution Approval to Operate No. 4306571;
2. Ordering Respondent to pay the Bureau the reasonable costs of the investigation and enforcement of this case; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/26/18



DR. MICHAEL MARION, JR.
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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