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

11
12 In the Matter of the Statement of Issues
Against:

Case No. 1002966

13 **H & H TRUCK DRIVING SCHOOL;**
14 **HECTOR HERNANDEZ, OWNER**

STATEMENT OF ISSUES

15 **Applicant for Approval to Operate a Non-**
16 **Accredited Institution**

17 Respondent.

18 Complainant alleges:

19 PARTIES

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

23 2. On or about April 23, 2015, the Bureau for Private Postsecondary Education
24 received an application for Approval to Operate a Non-Accredited Institution from H & H Truck
25 Driving School; Hector Hernandez, Owner (Respondent). On or about April 23, 2015, Hector
26 Hernandez certified under penalty of perjury to the truthfulness of all statements, answers, and
27 representations in the application. The Bureau denied the application on August 7, 2017.

28 //

1 JURISDICTION

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

6 4. Section 94887 of the Education Code¹ states:

7 An approval to operate shall be granted only after an applicant has presented
8 sufficient evidence to the bureau, and the bureau has independently verified the
9 information provided by the applicant through site visits or other methods deemed
10 appropriate by the bureau, that the applicant has the capacity to satisfy the minimum
operating standards. The bureau shall deny an application for an approval to operate if
the application does not satisfy those standards

11 STATUTES

12 5. Section 94885 of the Code provides in pertinent part:

13
14 (a) The bureau shall adopt by regulation minimum operating standards for an
institution that shall reasonably ensure that all of the following occur:

- 15 (1) The content of each educational program can achieve its stated objective.
- 16 (2) The institution maintains specific written standards for student admissions for
17 each educational program and those standards are related to the particular educational
program.
- 18 (3) The facilities, instructional equipment, and materials are sufficient to enable
19 students to achieve the educational program's goals

20
21 (7) That, upon satisfactory completion of an educational program, the institution gives
22 students a document signifying the degree or diploma awarded....

23 6. Section 94900 of the Code provides:

- 24 (a) An institution shall maintain records of the name, address, e-mail address, and
25 telephone number of each student who is enrolled in an educational program in that
institution.
- 26 (b) An institution shall maintain, for each student granted a degree or certificate by
27

28 ¹ The references to the Education Code are to the current code effective Jan. 1, 2018.

1 that institution, permanent records of all of the following:

2 (1) The degree or certificate granted and the date on which that degree or certificate
3 was granted.

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

5 (3) The grades earned by the student in each of those courses.

6 7. Section 94900.5 of the Code provides:

7 An institution shall maintain, for a period of not less than five years, at its principal
8 place of business in this state, complete and accurate records of all of the following
9 information:

10 (a) The educational programs offered by the institution and the curriculum for each.

11 (b) The names and addresses of the members of the institution's faculty and records of
12 the educational qualifications of each member of the faculty.

13 (c) Any other records required to be maintained by this chapter, including, but not
14 limited to, records maintained pursuant to Article 16 (commencing with Section
15 94928).

16 8. Section 94904 of the Code provides:

17 (a) Except as provided in subdivision (c) before an ability-to-benefit student may
18 execute an enrollment agreement, the institution shall have the student take an
19 independently administered examination from the list of examinations prescribed by
20 the United States Department of Education pursuant to Section 484(d) of the federal
21 Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.). The student shall not
22 enroll unless the student achieves a score, as specified by the United States
23 Department of Education, demonstrating that the student may benefit from the
24 education and training being offered.

25 (b) If the United States Department of Education does not have a list of relevant
26 examinations that pertain to the intended occupational training, the bureau may
27 publish its own list of acceptable examinations and required passing scores.

28 (c) The bureau shall on or before July 1, 2016, review the list of examinations
prescribed by the United States Department of Education. If the bureau determines
there is no examination on the list appropriate for ability to benefit students with
limited English proficiency, the bureau shall approve an alternative examination fir
these students. When approving the alternative examination, the bureau may consider
the Comprehensive Adult Student Assessment System examination

9. Section 94906 of the Code provides:

(a) An enrollment agreement shall be written in language that is easily understood. If
English is not the student's primary language, and the student is unable to understand

1 the terms and conditions of the enrollment agreement, the student shall have the right
2 to obtain a clear explanation of the terms and conditions and all cancellation and
refund policies in his or her primary language.

3 (b) If the recruitment leading to enrollment was conducted in a language other than
4 English, the enrollment agreement, disclosures, and statements shall be in that
language.

5 10. Section 94909 of the California Education Code provides in pertinent part:

6
7 (a) Except as provided in subdivision (d), prior to enrollment, an institution shall
8 provide a prospective student, either in writing or electronically, with a school catalog
containing, at a minimum, all of the following:

9 ...

10 (2) Except as specified in Article 2 (commencing with Section 94802), a statement
11 that the institution is a private institution and that it is approved to operate by the
bureau.

12 ...

13 (5) A description of the programs offered and a description of the instruction
14 provided in each of the courses offered by the institution, the requirements for
15 completion of each program, including required courses, any final tests or
examinations, any required internships or externships, and the total number of credit
hours, clock hours, or other increments required for completion.

16 (6) If the educational program is designed to lead to positions in a profession,
17 occupation, trade, or career field requiring licensure in this state, a notice to that
effect and a list of the requirements for eligibility for licensure.

18 (7) Information regarding the faculty and their qualifications.

19 (8) A detailed description of institutional policies in the following areas:

20 (A) Admissions policies, including the institution's policies regarding the acceptance
21 of credits earned at other institutions or through challenge examinations and
achievement tests, admissions requirements for ability-to-benefit students, and a list
22 describing any transfer or articulation agreements between the institution and any
other college or university that provides for the transfer of credits earned in the
23 program of instruction. If the institution has not entered into an articulation or transfer
agreement with any other college or university, the institution shall disclose that fact.

24 (B) Cancellation, withdrawal, and refund policies, including an explanation that the
25 student has the right to cancel the enrollment agreement and obtain a refund of
charges paid through attendance at the first class session, or the seventh day after
26 enrollment, whichever is later. The text shall also include a description of the
procedures that a student is required to follow to cancel the enrollment agreement or
27 withdraw from the institution and obtain a refund consistent with the requirements of
Article 13 (commencing with Section 94919).

28 ...

1 (9) The schedule of total charges for a period of attendance and an estimated schedule
2 of total charges for the entire educational program.

3 ...

4 (15) The following statement:

5 "NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
6 CREDENTIALS EARNED AT OUR INSTITUTION

7 The transferability of credits you earn at (name of institution) is at the complete
8 discretion of an institution to which you may seek to transfer. Acceptance of the
9 (degree, diploma, or certificate) you earn in (name of educational program) is also at
10 the complete discretion of the institution to which you may seek to transfer. If the
11 (credits or degree, diploma, or certificate) that you earn at this institution are not
12 accepted at the institution to which you seek to transfer, you may be required to
13 repeat some or all of your coursework at that institution. For this reason you should
14 make certain that your attendance at this institution will meet your educational goals.
15 This may include contacting an institution to which you may seek to transfer after
16 attending (name of institution) to determine if your (credits or degree, diploma, or
17 certificate) will transfer."

18 11. Section 94911 of the Code provides in pertinent part:

19 An enrollment agreement shall include, at a minimum, all of the following:

20 ...

21 (e) (1) A disclosure with a clear and conspicuous caption, 'STUDENT'S RIGHT TO
22 CANCEL,' under which it is explained that the student has the right to cancel the
23 enrollment agreement and obtain a refund of charges paid through attendance at the
24 first class session, or the seventh day after enrollment, whichever is later.

25 (2) The disclosure shall contain the institution's refund policy and a statement that, if
26 the student has received federal student financial aid funds, the student is entitled to a
27 refund of moneys not paid from federal student financial aid program funds.

28 ...

(h) The transferability disclosure that is required to be included in the school catalog,
as specified in paragraph (15) of subdivision (a) of Section 94909.

REGULATIONS

12. Title 5, California Cod of Regulations section 71140 provides:

(a) The institution shall include in its Form Application 94886 an organization chart
that shows the governance and administrative structure of the institution and the
relationship between faculty and administrative positions.

(b) The institution shall provide a description of the job duties and responsibilities of
each administrative and faculty position.

1 (c) The institution shall identify the chief executive officer, chief operating officer,
2 and chief academic officer and describe their education, experience, and
3 qualifications to perform their duties and responsibilities.

4 13. Title 5, California Code of Regulations section 71210 provides:

5 (a) The institution shall identify and describe the educational program it offers, or
6 proposes to offer. If the educational program is a degree program, the institution shall
7 identify the full title which it will place on each degree awarded.

8 (b) In addition to the general title, such as "Bachelor of Arts" or "Master of Science,"
9 each degree title shall include the name of a specific major field of learning involved.

10 (c) In addition, the institution shall list the following for each educational program
11 offered:

12 (1) The admissions requirements, including minimum levels of prior education,
13 preparation, or training;

14 (2) If applicable, information regarding the ability-to-benefit examination as required
15 by section 94904 of the Code;

16 (3) The types and amount of general education required;

17 (4) The title of the educational programs and other components of instruction offered,
18 including a description of the level of the courses (e.g., below college level,
19 undergraduate level, graduate level);

20 (5) The method of instruction;

21 (6) The graduation requirements; and

22 (7) Whether the educational program is designed to fit or prepare students for
23 employment in any occupation. If so, the Form Application 94886 shall identify each
24 occupation and job title to which the institution represents the educational program
25 will lead.

26 14. Title 5, California Code of Regulations section 71220 provides:

27 For each educational program that the institution offers or proposes to offer, the Form
28 Application 94886 shall contain a statement that the educational program meets the
requirements of section 71710, as well as the following:

(a) A description of the educational program.

(b) A description of the equipment to be used during the educational program.

(c) A description of the number and qualifications of the faculty needed to teach the
educational program.

(d) A projection, and the bases for the projection, of the number of students that the
institution plans to enroll in the educational program during each of the three years
following the date the Form Application 94886 was submitted.

(e) A description of the learning, skills, and other competencies to be acquired by
students who complete the educational program.

1 (f) If licensure is a goal of an educational program, a copy of the approval from the
2 appropriate licensing agency if required. A copy of the intent to approve conditioned
3 solely upon institutional approval from the Bureau will also meet this requirement.

4 Upon request, the institution shall provide to the Bureau copies of the curriculum or
5 syllabi required pursuant to section 71710.

6 15. Title 5, California Code of Regulations section 71260 provides in pertinent part:

7 (a) For each program offered, the Form Application 94886 shall contain a description
8 of the facilities and the equipment which is available for use by students at the main,
9 branch, and satellite locations of the institution.

10 ...

11 (c) The description of the physical facilities shall include building diagrams or
12 campus maps to assist the Bureau in locating these facilities. The diagrams or maps
13 shall identify the location of classrooms, laboratories, workshops, and libraries....

14 16. Title 5, California Code of Regulations section 71270 provides in pertinent part:

15 The Form Application 94886 shall include a description of library holdings, services,
16 and other learning resources, including policies and procedures for supplying them to
17 students who do not receive classroom instruction. The description need not consist
18 of a list of each holding. The description shall include an explanation of how the
19 library and other learning resources are sufficient to support the instructional needs of
20 students and, if no facilities exist at the institution, how and when students may obtain
21 access to a library and other learning resources as required by the curriculum

22 17. Title 5, California Code of Regulations section 71310 provides:

23 (a) The Form Application 94886 shall contain a description of how records required
24 by Article 9 of the Act or this chapter are or will be organized and maintained, the
25 types of documents contained in student files, how the records are stored, and
26 whether academic and financial records are maintained in separate files. The
27 description shall include a statement of the institution's procedures for security and
28 safekeeping of records.

(b) The description shall include the name, physical address, email address, and
telephone number of the custodian of records, and the physical addresses and
telephone numbers of the offices or buildings where the records will be maintained.

18. Title 5, California Code of Regulations section 71320 provides:

The Form Application 94886 shall contain a description of the procedures used by the
institution to assure that it is maintained and operated in compliance with the Act and
this Division.

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19. Title 5, California Code of Regulations section 71710 provides in pertinent part:

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

...

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

- (1) a short, descriptive title of the educational program;
- (2) a statement of educational objectives;
- (3) length of the educational program;
- (4) sequence and frequency of lessons or class sessions;
- (5) complete citations of textbooks and other required written materials;
- (6) sequential and detailed outline of subject matter to be addressed or a list of skills to be learned and how those skills are to be measured;
- (7) instructional mode or methods.

20. Title 5, California Code of Regulations section 71720 provides in pertinent part:

(b) Instructors in an Educational Program Not Leading to a Degree.

(1) An institution shall employ instructors who possess the academic, experiential and professional qualifications to teach, including a minimum of three years of experience, education and training in current practices of the subject area they are teaching. If an instructor does not possess the required three years of experience, education and training in the subject area they are teaching, the institution shall document the qualifications the instructor possesses that are equivalent to the minimum qualifications.

(2) Each instructor shall maintain their knowledge by completing continuing education courses in his or her subject area, classroom management or other courses related to teaching.

(3) The institution shall not employ or continue to employ an instructor who was adjudicated in a judicial or administrative proceeding as having violated any provision of the Act or this chapter, or as having committed any act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code.

21. Title 5, California Code of Regulations section 71745 provides:

1 (a) The institution shall document that it has at all times sufficient assets and financial
resources to do all of the following:

2 (1) Provide all of the educational programs that the institution represented it would
3 provide.

4 (2) Ensure that all students admitted to its educational programs have a reasonable
opportunity to complete the programs and obtain their degrees or diplomas.

5 (3) Maintain the minimum standards required by the Act and this chapter.

6 (4) Pay timely refunds as required by Article 13 of the Act.

7 (5) Pay all operating expenses due within 30 days.

8 (6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at
9 the end of the most recent fiscal year when using generally accepted accounting
principles, or for an institution participating in Title IV of the federal Higher
10 Department of Education. For the purposes of this section, current assets does not
11 include: intangible assets, including goodwill, going concern value, organization
expense, startup costs, long-term prepayment of deferred charges, and non-returnable
12 deposits, or state or federal grant or loan funds that are not the property of the
institution but are held for future disbursement for the benefit of students. Unearned
13 tuition shall be accounted for in accordance with general accepted accounting
principles.

14
15 22. Title 5, California Code of Regulations section 71730 provides in pertinent part:

16 (a) Each institution shall have a chief executive officer, a chief operating officer and
17 chief academic officer. One person may serve more than one function.

18 (b) The duties, responsibilities, and performance evaluation criteria for each
19 administrator shall be set forth in a personnel manual or other writing maintained by
the institution.

20 23. Title 5, California Code of Regulations section 71750 provides in pertinent part:

21
22 (a) Every institution shall make refunds that are no less than the refunds required
under the Act and this Division.

23 (b) An institution may not enforce any refund policy that is not specified in the
24 catalog as required pursuant to section 94909(a)(8)(B) of the Code, and must refund
all institutional charges upon a student's withdrawal. Withdrawal policy procedures
25 pursuant to section 94909(a)((8)(B) of the Code shall include, at a minimum: the
acceptable methods of delivery of a notice to withdraw; whether withdrawal can be
26 accomplished by conduct, and if so, how; the position or positions to whom the notice
to withdraw must be delivered; and the date that the notice to withdraw is considered
27 effective, which shall be no later than the date received by the institution....

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24. Title 5, California Code of Regulations section 71760 provides:

Each institution shall develop and maintain adequate procedures used by the institution to assure that it is maintained and operated in compliance with the Act and this Division.

25. Title 5, California Code of Regulations section 71800 provides in pertinent part:

In addition to the requirements of section 94911 of the Code, an institution shall provide to each student an enrollment agreement that contains at the least the following information:

- (a) The name and address of the institution and the addresses where instruction will be provided.
- (b) Period covered by the enrollment agreement.
- (c) Program start date and scheduled completion date.
- (d) Date by which the student must exercise his or her right to cancel or withdraw, and the refund policy, including any alternative method of calculation if approved by the Bureau pursuant to section 94921 of the Code.
- (e) Itemization of all institutional charges and fees including, as applicable:

...

(11) Student Tuition Recovery Fund fee (non-refundable);

....

26. Title 5, California Code of Regulations section 71810 provides in pertinent part:

...

(b) The catalog shall contain the information prescribed by Section 94909 of the Code and all of the following:

...

(3) If the institution admits students from other countries, whether visa services are provided or whether the institution will vouch for student status, and any associated charges;

(4) Language proficiency information, including: (A) the level of English language proficiency required of students and the kind of documentation of proficiency, such as the Test of English as a Foreign Language (TOEFL), that will be accepted; and (B) whether English language services, including instruction such as ESL, are provided and, if so, the nature of the service and its cost;

1 ...

2 (10) A description of library and other learning resources and the procedures for
3 student access to those resources;

4

5 27. Title 5, California Code of Regulations section 74112 provides in pertinent part:

6 ...

7 (3) "Gainfully Employed" means:

8 (A)(i) The graduate is employed in a job classification under the United States
9 Department of Labor's Standard Occupational Classification codes, using the Detailed
10 Occupation (six-digit) level, for which the institution has identified in its catalog and
11 in its employment positions list required by section 94910(f)(2) of the Code that the
12 program prepares its graduates...

13 28. Title 5, California Code of Regulations section 74115 provides:

14 (a) This section applies to every set of financial statements required to be prepared or
15 filed by the Act or by this chapter.

16 (b) A set of financial statements shall contain, at a minimum, a balance sheet, an
17 income statement, and a cash flow statement, and the preparation of financial
18 statements, shall comply with all of the following:

19 (1) Audited and reviewed financial statements shall be conducted and prepared in
20 accordance with the generally accepted accounting principles established by the
21 American Institute of Certified Public Accountants by an independent certified public
22 accountant who is not an employee, officer, or corporate director or member of the
23 governing board of the institution.

24 (2) Financial statements prepared on an annual basis as required by section 74110(b)
25 shall be prepared in accordance with the generally accepted accounting principles
26 established by the American Institute of Certified Public Accountants. Nonprofit
27 institutions shall provide annual financial statements as required under generally
28 accepted accounting principles for nonprofit organizations.

(3) The financial statements shall establish that the institution meets the requirements
for financial resources required by Section 71745.

(4) If an audit performed to determine compliance with any federal or state student
financial aid program reveals any failure to comply with the requirements of the
program and the noncompliance creates any liability or potential liability for the
institution, the financial statements shall reflect the liability or potential liability.

(5) Any audits shall demonstrate that the accountant obtained an understanding of the
institution's internal financial control structure, assessed any risks, and has reported
any material deficiencies in the internal controls.

(c) Work papers for the financial statements shall be retained for five years from the

1 date of the statements and shall be made available to the Bureau upon request.

2 (d) "Current" with respect to financial statements means completed no sooner than
3 120 days prior to the time it is submitted to the Bureau, and covering no less than the
4 most recent complete fiscal year. If more than 8 months will have elapsed between
5 the close of the most recent complete fiscal year and the time it is submitted, the
6 fiscal statements shall also cover no less than five months of that current fiscal year.

7 BACKGROUND

8 29. Respondent's submitted an application for an approval to operate a non-accredited
9 Institution on or about April 23, 2015. On or about August 29, 2015, the Bureau sent a deficiency
10 letter to the Respondent. The Bureau received a response from the Respondent on September 8,
11 2015. On or about January 30, 2017, the Bureau sent a second deficiency letter to the
12 Respondent. On February 12, 2017 and February 20, 2017 the Bureau received responses from
13 the Respondent. The Bureau's Notice of Denial of the Application for Approval to Operate was
14 sent to Respondent on August 7, 2017.

15 FIRST CAUSE FOR DENIAL OF APPLICATION

16 (Organization and Management)

17 30. Respondent's application is subject to denial pursuant to Code section 94887 in
18 conjunction with Title 5, California Code of Regulations, sections 71140, subdivision (a) and
19 71730, in that Respondent failed to demonstrate that it met minimum operating standards by
20 failing to identify the positions of chief executive officer, chief operating officer, and chief
21 academic officer, and failing to provide the job descriptions and duties for said position as
22 required.

23 SECOND CAUSE FOR DENIAL OF APPLICATION

24 (Exemplars of Student Enrollment Agreements)

25 31. Respondent's application is subject to denial in that the exemplars of student
26 enrollment agreements failed to comply with the Code and Regulations as follows below:

27 a. Under Code section 94906, subdivision (b), Respondent failed to provide a
28 Spanish version of their enrollment agreement despite the fact that in their March 28, 2017,

1 submission stated that they will provide non-English speaking persons copies of the enrollment
2 agreement in Spanish.

3 b. Under Title 5, California Code of Regulations, section 71800, subdivision (a),
4 Respondent's proposed enrollment agreement included two addresses, however, it was unclear
5 which type of instruction (classroom or practical training) would take place at each location.

6 c. Under Title 5, California Code of Regulations, section 71800, subdivisions (b),
7 and (d), Respondent's proposed enrollment agreement did not include the time period covered by
8 the enrollment agreement. Also, the enrollment agreement did not include a date by which the
9 student must exercise his or her right to cancel or withdraw from the agreement.

10 d. Under Title 5, California Code of Regulations, section 71800, subdivisions (e)
11 (11), Respondent's proposed enrollment agreement listed the Student Tuition Recovery Fund
12 Fee as \$10.00 when the current fee should be listed as \$0.00.

13 e. Under Code section 94911, subdivision (e)(1), and (2), Respondent's proposed
14 enrollment agreement provided inconsistent statements pertaining to the student's right to cancel.
15 The statement under "Student's Right to Cancel" provided that a student would receive a full
16 refund if a notice of cancellation was made before midnight the second business day after the first
17 day of instruction. However, under "Buyer's Right to Cancel" the same student enrollment
18 agreement provides that a student can cancel on or before midnight the seventh business day after
19 the first day of instruction.

20 f. Under Code section 94911, subdivision (e)(2), Respondent's proposed enrollment
21 agreement is not clear if a student is entitled to a refund of monies which are not paid from
22 federal student financial aid program funds when a student has received financial aid.

23 g. Under Code section 94911, subdivision (h), Respondent's proposed enrollment
24 agreement failed to include the following statement: "Acceptance of the certificate you earn in
25 Truck Driving is also at the complete discretion of the institution to which you may seek to
26 transfer."

27 //

28 //

THIRD CAUSE FOR DENIAL OF APPLICATION

(Instructions and Degree Offered)

1
2 Respondent's application is subject to denial in that the admission requirements detailed
3 below failed to comply with the Code and Regulations as follows:

4 a. Under Title 5, California Code of Regulations section 71210, subdivision (c) (1),
5 Respondent did not submit admissions requirements for their program, including minimum levels
6 of prior education, preparation, or training.

7 b. Under Title 5, California Code of Regulations, section 71210, subdivision (c) (2),
8 Respondent did not disclose information regarding the ability-to-benefit examination as required
9 by the Education Code.

10 c. Under Title 5, California Code of Regulations, section 71210, subdivision (c) (3),
11 Respondent did not indicate the types and amount of general education that students must possess
12 to enter the program.

13 d. Under Title 5, California Code of Regulations, section 71210, subdivision (c) (5),
14 Respondent did not describe in detail the method of instruction for the truck driving program.

15 e. Under Title 5, California Code of Regulations, sections 71210, subdivision (c) (6),
16 Respondent failed to provide a detailed description of the graduation requirements for their
17 program.

18 f. Under Title 5, California Code of Regulations, sections 71210, subdivision (c) (7),
19 Respondent failed to explain if the education program is designed to fit or prepare students for
20 employment in any occupation and to identify each occupation and job title for which each
21 educational program is represented to lead.

22
23 FOURTH CAUSE FOR DENIAL OF APPLICATION

(Educational Program)

24 32. Respondent's application is subject to denial in that the educational program failed
25 to meet the requirements of the Code and Regulations as set forth more specifically below:
26
27
28

1 a. Under Title 5, California Code of Regulations, section 71220 (c), Respondent
2 failed to provide the number and qualifications of the faculty needed to teach the educational
3 program offered.

4 b. Under Title 5, California Code of Regulations, sections 71220, subdivision (e),
5 Respondent failed to provide a description of the learning, skills and other competencies to be
6 acquired upon completion of the educational program.

7 c. Under Title 5, California Code of Regulations, section 71710, subdivision (c),
8 Respondent failed to submit any syllabi that were complete and met the requirements of the Code.

9 FIFTH CAUSE FOR DENIAL OF APPLICATION
10 (Financial Resources and Statements)

11 33. Respondent's application is subject to denial upon their financial documentation in
12 that Respondent failed to submit current financial statements which demonstrate sufficient assets
13 and financial resources as required by Title 5, California Code of Regulations, section 74115.

14 SIXTH CAUSE FOR DENIAL OF APPLICATION
15 (Facilities and Equipment)

16 34. Respondent's application is subject to denial pursuant to Title 5, California Code
17 of Regulations, section 71260, (a) and (c), in that Respondent failed to provide a description for
18 the facility located at 5317 W. Grantline Rd., as required.

19 SEVENTH CAUSE FOR DENIAL OF APPLICATION
20 (Libraries and Resources)

21 35. Respondent's application is subject to denial pursuant to 5 California Code of
22 Regulations, section 71270, in that Respondent did not provide a description of the library or
23 other learning resources therefore failing to meet the minimum operating standards.

24 EIGHTH CAUSE FOR DENIAL OF APPLICATION
25 (Catalog)

26 36. Respondent's application is subject to denial in that the proposed catalog failed to
27 comply with the Code and Regulations as set forth more specifically below:
28

1 a. Under Code section 94909, (a) (2), Respondent's catalog states that they are
2 approved to operate by the Bureau however used the Bureau's former name.

3 b. Under Title 5, California Code of Regulations, section 71810 (b) (10), Respondent
4 did not include a description of the library and other learning resources along with procedures for
5 the students to access those resources.

6 c. Under Code 94909, subdivision (a) (15), the language that addresses transferability
7 of credits and credentials is stated incorrectly on page four of the catalog.

8 d. Under Title 5, California Code of Regulations, section 71810 (b) (3), the
9 statement in the catalog pertaining to visas on page six is confusing and should be clarified or
10 removed if the institution does not admit students from other countries.

11 e. Under Title 5, Code of Regulations, section 71810 (b) (4), the catalog does not
12 include a level of English proficiency required of students nor does it list the acceptable
13 documentation establishing proficiency which would be accepted.

14 f. Under Code section 94909, subdivision (a) (5), the catalog fails to identify which
15 program courses are offered by the institution and the program description on page 15 of said
16 catalog is inconsistent in identifying whether the institution offers one or two programs.

17 g. Under Code section 94909, subdivision (a) (6), the catalog failed to specify the
18 requirements for eligibility for licensure when the program's stated career outcome requires
19 specific licensing from the Department of Motor Vehicles.

20 h. Under Code section 94909, subdivision (a) (9), the catalog failed to include the
21 schedule of total charges for a period of attendance.

22 i. Under Code section 94909, subdivision (a) (8) (B), and Title 5, California Code of
23 Regulations, section 71750, the catalog provides inconsistent statements regarding the student's
24 right to cancel.

25 j. Under Code section 94909, subdivision (a) (7), Respondent failed to provide the
26 qualifications for instructor Andre Steven Hernandez.

27 k. Under Title 5, Code of Regulations, section 71810 (b) (15), the catalog does not
28 indicate that transcripts will be maintained permanently by the institution as required.

1 Under Title 5, California Code of Regulations, section 74112 (d) (3) (A) (i), the
2 catalog fails to list the job classifications for each program using the United States Department of
3 Labor Standard Occupational Classification Codes.

4 NINTH CAUSE FOR DENIAL OF APPLICATION
5 (Record-Keeping)

6 37. Respondent's application is subject to denial pursuant to California Education
7 Code sections, 94900 and 94900.5, in conjunction with Title 5, California Code of Regulations
8 section, 71310 (a), in that Respondent failed to list or describe how records would be organized
9 and maintained in the student files as required.

10 TENTH CAUSE FOR DENIAL OF APPLICATION
11 (Self Monitoring Procedures)

12 38. Respondent's application is subject to denial pursuant to Title 5, California Code
13 of Regulations, sections 71320 and 71760, in that Respondent failed to provide sufficient
14 evidence that the institution will meet the requirements for self-monitoring.

15 PRAYER

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

19 1. Denying the application of H & H Truck Driving School, Hector Hernandez,
20 Owner for an Approval to Operate Non-Accredited Institution.

21 2. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/26/18

24 

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

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