

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 HELENE E. ROUSE
Deputy Attorney General
4 State Bar No. 130426
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6279
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA
10

11 In the Matter of the Statement of Issues
12 Against:
13 **SKYWAY TRUCKING SCHOOL INC.**
14 **Application for Approval to Operate an**
Institution Non Accredited, Applicant
15 **Application No. 24634**

Case No. 1002903

STATEMENT OF ISSUES

16 Respondent.
17

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19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about March 30, 2012, the Bureau received an Application for Approval to
25 Operate an Institution Non Accredited from Skyway Trucking School Inc., Application Number
26 24634. M.S., Owner of Skyway Trucking School Inc., signed the application on March 28, 2012,
27 attesting under penalty of perjury that the information in the Application and all attachments are
28 true and correct.

1 **JURISDICTION AND STATUTORY PROVISIONS**

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

5 4. Section 94885 states as follows:

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

8 (1) The content of each educational program can achieve its stated
objective.

9 (2) The institution maintains specific written standards for student
10 admissions for each educational program and those standards are related to the
particular educational program.

11 (3) The facilities, instructional equipment, and materials are sufficient to
12 enable students to achieve the educational program's goals.

13 (4) The institution maintains a withdrawal policy and provides refunds.

14 (5) The directors, administrators, and faculty are properly qualified.

15 (6) The institution is financially sound and capable of fulfilling its
commitments to students.

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

18 (8) Adequate records and standard transcripts are maintained and are
available to students.

19 (9) The institution is maintained and operated in compliance with this
20 chapter and all other applicable ordinances and laws.

21 (b) Except as provided in Section 94885.1, an institution offering a degree
must satisfy one of the following requirements:

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

24 (2) An accreditation plan, approved by the bureau, for the institution to
25 become fully accredited within five years of the bureau's issuance of a provisional
approval to operate to the institution. . .

26 5. Section 94886 states:

27 Except as exempted in Article 4 (commencing with section 94874) or in
28 compliance with the transition provisions in Article 2 (commencing with Section
94802), a person shall not open, conduct, or do business as a private postsecondary

1 educational institution in this state without obtaining an approval to operate under this
2 chapter.

3 6. Section 94887 states:

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

10 REGULATORY PROVISIONS

11 7. California Code of Regulations (CCR), title 5, section 71400, provides, in relevant
12 part:

13 (a) Action by the Bureau shall not commence until a completed Form
14 Application 94886 for approval to operate, or for verification of exemption, has been
15 submitted to the Bureau for its review.

16 (b) Within 30 days after receipt of a Form Application 94886 for approval
17 to operate as required by Article 1, or for verification of exemption, the Bureau shall
18 notify the institution in writing that the application is complete and has been accepted
19 for filing or that the application is not complete. If the application is not complete, the
20 Bureau shall specify in the notice what additional information or documents are
21 needed from the institution in order for the application to be deemed complete.

22 (c) The Bureau shall consider an application to be complete if it appears
23 that the institution has submitted all of the information, documents, and fees required
24 by the Act and by Article 2 of this chapter. This includes any additional documents
25 the Bureau may request to determine if the institution's proposed implementation
26 meets the minimum operating standards of section 94885 of the Code.

27 (d) Pursuant to section 94887 of the Code, the Bureau will either grant or
28 deny an application . . .

8. CCR, title 5, section 71700 states: "The Bureau may request that an institution
document compliance with the standards set forth in the Act and this Division to obtain and
maintain an approval to operate."

9. CCR, title 5, section 71710 states:

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.

10. CCR, title 5, section 71715, provides that:

- (a) Instruction shall be the central focus of the resources and services of the institution.
- (b) The institution shall document that the instruction offered leads to the achievement of the learning objectives of each course.
- (c) Direct instruction requires the physical presence of one or more students and one or more faculty members at the same location. Direct instruction includes instruction presented in a classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning settings consistent with the mission, purposes, and objectives of the institution.
- (d) Distance education as defined in section 94834 of the Code, does not require the physical presence of students and faculty at the same location but provides for interaction between students and faculty by such means as telecommunication, correspondence, electronic and computer augmented educational services, postal service, and facsimile transmission. In addition to the other requirements of this chapter and the Act, an institution offering distance education shall:
 - (1) ensure that the educational program offered through distance education is appropriate for delivery through distance education methods;
 - (2) assess each student, prior to admission, in order to determine whether each student has the skills and competencies to succeed in a distance education environment;
 - (3) ensure that the materials and programs are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology;
 - (4) provide for meaningful interaction with faculty who are qualified to teach using distance education methods;
 - (5) maintain clear standards for satisfactory academic progress;
 - (6) timely complete student evaluations of learning outcomes by duly qualified faculty, which are appropriate for use with the distance education methods

1 used, and evaluated by duly qualified faculty.

2 (7) employ a sufficient number of faculty to assure that (A) the
3 institution's response to, or evaluation of, each student lesson is returned to the
4 student within 10 days after the lesson is received by the institution; and (B) the
5 institution's response to, or evaluation of, each student project or dissertation is
6 returned to the student within the time disclosed in the catalog; and

7 (8) shall maintain a record of the dates on which lessons, projects, and
8 dissertations were received and responses were returned to each student.

9 11. CCR, title 5, section 71720, states, in relevant part:

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

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

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

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

27 12. CCR, title 5, section 71730, provides:

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

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

(c) An institution with one or more branch locations shall establish
written institutional policies, consistent with subdivision (d), regarding the division
and sharing of administrative responsibilities between the central administration at the
main location and the administration at the branch locations.

(d) The administrative staffing at each branch location shall reflect the
purposes, size, and educational operations at that location and at any satellite location
for which the branch has administrative responsibilities.

(e) The chief academic officer shall possess a degree or equivalent
acceptable experience at least equal to the highest qualifications required of the
institution's faculty. Chief academic officers employed on the date of implementation

1 of these regulations, who do not meet the qualifications for their positions, shall have
2 three years to earn the necessary degrees or experience to qualify them for their
3 position.

4 (f) The institution shall employ administrative personnel who have the
5 expertise to ensure the achievement of the institution's mission and objectives and the
6 operation of the educational programs.

7 (g) The institution shall not employ or continue to employ any
8 administrative personnel who were adjudicated in a judicial or administrative
9 proceeding as having violated any provision of the Act or this chapter or as having
10 committed any act that would constitute grounds for the denial of a license under
11 Section 480 of the Business and Professions Code.

12 FACTUAL BACKGROUND

13 13. On or about March 30, 2012, the Bureau received Respondent's Application No.
14 24634, which included the following information:

- 15 • Form Application 94886 (rev. 7/10)
- 16 • Organization and Management
- 17 • Governing Board
- 18 • Mission and Objectives
- 19 • Exemplars of Student Agreements
- 20 • Advertising and Other Public Statements
- 21 • Instruction and Degrees Offered
- 22 • Description of Educational Program
- 23 • Instruction in Languages Other Than English
- 24 • Financial Resources and Statements
- 25 • Facilities and Equipment
- 26 • Libraries and other Learning Resources
- 27 • Job Placement Assistance
- 28 • Catalog
- Graduation or Completion Documents
- Recordkeeping: Custodian of Records
- Self-Monitoring Procedures

1 14. On April 23, 2012, the Bureau sent an Application Review Letter to Respondent. The
2 Bureau received a response to this letter from Respondent on November 26, 2012.

3 15. On September 25, 2013, the Bureau sent a deficiency letter to Respondent. The
4 Bureau received a response to the deficiency letter from Respondent on December 23, 2013.

5 16. On April 3, 2014, the Bureau sent a deficiency letter to Respondent. Responses to the
6 deficiency letter were received by the Bureau from Respondent on May 5, 2014 and on May 27,
7 2014.

8 17. On April 30, 2015, the Bureau received a letter changing the Person of Contact from
9 Respondent.

10 18. On September 30, 2015, the Bureau sent a deficiency letter to Respondent. A
11 response was received by the Bureau on November 2, 2016.

12 19. A deficiency letter was sent to Respondent on January 11, 2017.

13 20. On August 17, 2017, the Bureau denied Respondent's Application since it was
14 incomplete, did not satisfy the minimum operating standards and certain deficiencies were not
15 cured, as set forth in this Statement of Issues, below:

16 **FIRST CAUSE FOR DENIAL OF APPLICATION**

17 **(Incomplete Application)**

18 21. Respondent's application is subject to denial under Sections 94885, 94886 and
19 94887 and CCR, title 5, section 71400 subdivision (c), in that Respondent failed to provide
20 complete information, without which the Bureau is unable to determine if the institution meets the
21 minimum operating standards as required by law, as follows:

22 22. In a letter dated January 11, 2017, the Bureau requested Respondent provide
23 additional documentation for Respondent's Organization and Management, Instruction and
24 Degrees Offered, Description of Educational Program, and Faculty, but the Bureau has not
25 received a response from Respondent.

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1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Meet Minimum Operating Standards – Administration)**

3 23. Respondent's application is subject to denial under Sections 94885, 94886 and 94887
4 and CCR, title 5, section 71730, in that Respondent has not met minimum operating standards, by
5 failing to demonstrate that it has employed administrative personnel who have the expertise to
6 ensure the achievement of Respondent's mission and objectives and the operation of its
7 educational programs, as follows:

8 24. In a letter dated January 11, 2017, the Bureau requested Respondent provide a
9 curriculum vitae/ resume for its Chief Executive Officer and Chief Operating Officer. The
10 response from Respondent dated November 2, 2016, that ". . . [M.S.] does not have a resume", is
11 insufficient and does not meet minimum operating standards.

12 **THIRD CAUSE FOR DENIAL OF APPLICATION**

13 **(Failure to Meet Minimum Operating Standards –
14 Educational Program & Instruction)**

15 25. Respondent's application is subject to denial under Sections 94885, 94886 and 94887
16 and CCR, title 5, sections 71710, subdivision (c) and 71715, subdivisions (a)-(c), in that
17 Respondent has not met minimum operating standards by failing to provide the Bureau with a
18 syllabus for one of its educational courses, as set forth more specifically below:

19 26. In a letter dated January 11, 2017, the Bureau requested Respondent provide a
20 syllabus for the Tractor/Trailer Driver Course, in accordance with CCR, title 5, section 71710,
21 subdivision (c), which included: "course or module materials that are designed or organized by
22 duly qualified faculty. For each program, each student shall be provided with a syllabus or course
23 outline that contains:

- 24 (1) A short descriptive title of the educational program;
25 (2) A statement of educational objectives;
26 (3) Length of educational program;
27 (4) Sequence and frequency of lessons or class sessions;
28 (5) Complete citations of textbooks and other required written materials;

- 1 (6) Sequential and detailed outline of subject matter to be addressed or a list of skills to
2 be learned and how those skills are to be measured;
3 (7) Instructional mode or methods; and
4 (8) Specific learning outcomes tied to the sequence of the material.”

5 27. The Bureau received a syllabus for the Tractor-Trailer Driver Course; however, it is
6 non-compliant, as follows:

7 (1) Although all the components are in the syllabus, it contains two lengths for the
8 educational program: 160 hours and 440 hours, but fails to explain how the 440 hours were
9 derived.

10 (2) Each specific learning course objective/goal should have a learning outcome tied
11 directly to the objective/goal. The specific learning outcome for the course is too broad.

12 (3) Respondent should input all of the information in the syllabus into another syllabus
13 template that is more typically used by faculty in an academic setting.

14 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

15 **(Failure to Meet Minimum Operating Standards - Faculty)**

16 28. Respondent's application is subject to denial under Sections 94885, subdivision
17 (a)(5), 94886 and 94887 and CCR, title 5, section 71720, subdivision (b), in that Respondent does
18 not satisfy the legally required minimum operating standards for faculty. Respondent has not
19 shown that its faculty members are qualified to perform the duties to which the faculty members
20 were assigned, including providing instruction for its programs, as set forth more specifically
21 below:

22 29. In a letter dated January 11, 2017, the Bureau requested Respondent provide for
23 faculty members C.C., J.S., and M.A., a curriculum vitae/ resume, licenses, and certifications that
24 will support Respondent's hiring of these individuals as duly qualified faculty. In addition, the
25 Bureau requested Respondent provide employment contracts between Respondent and faculty
26 members. Respondent's response, stating "At Will", is insufficient and inadequate.

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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. Denying the Application for Approval to Operate an Institution Non Accredited No. 24634 of Respondent Skyway Trucking School Inc.; and
2. Taking such other and further action as deemed necessary and proper.

DATED: _____

1/24/18



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

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