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7

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

12
13 In the Matter of the Accusation Against: Case No. 1002304
14 **EDISON TRUCK AND BUS DRIVING**
15 **SCHOOL, INC., EDISON D. FREIRE,**
16 **TONNIE P. FREIRE, MIRELLA C.**
17 **FREIRE**
18 **2024 North Durfee Ave**
19 **South El Monte, CA 91733**
20
21 **Revocation of Approval to Operate a Non-**
22 **Accredited Institution No. 1937251**
23
24 Respondent.

A C C U S A T I O N

22 Complainant alleges:

23 **PARTIES**

- 24 1. Dr. Michael Marion, Jr. (Complainant) brings this Accusation solely in his official
25 capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of
26 Consumer Affairs.
27 2. On or about January 4, 1999, the Bureau issued Approval to Operate a Non-
28 Accredited Institution Number 1937251 to Edison Truck and Bus Driving School, Inc., Edison D.

1 Freire, Tonnie P. Freire, Mirella C. Freire (Respondent). On or about May 28, 2013, the Bureau
2 received an application for Renewal of Approval to Operate a Non-Accredited Institution from
3 Edison Truck and Bus Driving School, Inc., (Respondent). The Bureau denied the application on
4 February 7, 2017.

5
6 **JURISDICTION**

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

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

11 "...

12 (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
13 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
14 order of a court of law, or its surrender without the written consent of the board, shall not, during
15 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
16 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
17 provided by law or to enter an order suspending or revoking the license or otherwise taking
18 disciplinary action against the licensee on any such ground.

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

22 5. Section 477 of the Bus. & Prof. Code states:

23 "As used in this division:

24 (a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,'
25 'examining committee,' 'program,' and 'agency.'

26 (b) 'License' includes certificate, registration or other means to engage in a business or
27 profession regulated by this code."

28 6. Section 94932 of the Code states:

1 “The bureau shall determine an institution’s compliance with the requirements of this
2 chapter. The bureau shall have the power to require reports that institutions shall file with the
3 bureau in addition to the annual report, to send staff to an institution’s sites, and to require
4 documents and responses from an institution to monitor compliance. When the bureau has reason
5 to believe that an institution may be out of compliance, it shall conduct an investigation of the
6 institution. If the bureau determines, after completing an investigation, that an institution has
7 violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this
8 article.”

9
10 **STATUTORY AND REGULATORY PROVISIONS**

11 7. Section 94897 of the Code states:

12 “...

13 (j) In any manner make an untrue or misleading change in, or untrue or misleading
14 statement related to, a test score, grade or record of grades, attendance record, record indicating
15 student completion, placement, employment, salaries, or financial information, including any of
16 the following:

17 (1) A financial report filed with the bureau.”

18 8. Cal. Code of Regs., Title 5 section 76120 states:

19 “(a) Each qualifying institution shall collect an assessment of zero dollars (\$0) per one
20 thousand dollars (\$1,000) of institutional charges, rounded to the nearest thousand dollars, from
21 each student in an educational program who is a California resident or is enrolled in a residency
22 program. For institutional charges of one thousand dollars (\$1,000) or less, the assessment is zero
23 dollars (\$0).”¹

24 //

25 //

26 //

27 ¹ Effective January 1, 2015, the Student Tuition Recovery Fund (STRF) assessment rate
28 was changed to zero and schools were to no longer collect STRF assessments pursuant to this
provision.

1 **BACKGROUND FACTS**

2 9. On or around December 16, 2016, the Bureau received a complaint from N.M.²
3 stating that Respondent did not provide a full refund of his enrollment fees when he requested to
4 withdraw from Respondent’s program.

5 10. Investigation by the Bureau revealed that in addition to enrollment fees, Respondent
6 charged N.M. a Student Tuition Recovery Fund (STRF) fee of \$7.22 as a part of the enrollment
7 agreement.

8 11. Further investigation of three (3) additional student enrollment agreements and 2015
9 – 2017 back-up reports confirmed that Respondent had charged students STRF fees from 2015 –
10 2017 in violation of Bureau regulations.³

11 12. In total, during the time period between 2015 – 2017, Respondent collected \$1082.83
12 in STRF fees from 174 students.

13 13. Respondent falsely submitted the STRF Assessment Reporting Forms to the Bureau
14 representing that they did not collect any STRF fees during 2015, 2016 or the first three quarters
15 of 2017.

16
17 **FIRST CAUSE FOR DISCIPLINE**

18 (Unlawful Collection of Student Tuition Recovery Fund Fees)

19 14. Respondent is subject to disciplinary action pursuant to Cal. Code of Regs., Title 5,
20 section 76120 in that Respondent unlawfully collected STRF fees. Complainant refers to and
21 incorporates paragraphs 9 – 13 above, as if fully set forth herein.

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23 //
24 //
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27 ² Complainant initials used in order to protect consumer confidentiality.

28 ³ Review of enrollment agreements for P.A., J.L. and G.G. all demonstrated that the students were all unlawfully charged STRF fees.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Filing False or Misleading Financial Report)

3 15. Respondent is subject to disciplinary action pursuant to Code section 94897
4 subdivision (j)(1) in that Respondent filed a false and misleading financial report. Complainant
5 refers to and incorporates paragraphs 9 – 13 above, as if fully set forth herein.

6
7 **PRAYER**

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

11 1. Revoking or suspending Revocation of Approval to Operate a Non-Accredited
12 Institution Number 1937251, issued to Edison Truck and Bus Driving School, Inc., Edison D.
13 Freire, Tonnie P. Freire, Mirella C. Freire;

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

17 3. Taking such other and further action as deemed necessary and proper.
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19
20

21 DATED: 12/28/18



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

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