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

14 In the Matter of the Accusation Against:

Case No. BPPE23-0812

15 **JDS SECURITY TRAINING**
16 **1075 Bay Blvd., Suite C&D**
Chula Vista, CA 91911

ACCUSATION

17 **Approval to Operate Institution Code No.**
18 **88680836**

19 Respondent.

20
21 **PARTIES**

22 1. Deborah Cochrane (Complainant) brings this Accusation solely in her official
23 capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of
24 Consumer Affairs.

25 2. On or about May 6, 2020, the Bureau issued Approval to Operate Number Institution
26 Code 88680836 to JDS Security Training (Respondent). JDS Security Training is owned by JDS
27 Security Training, Inc. The Approval to Operate was in full force and effect at all times relevant
28 to the charges brought herein and will expire on June 5, 2025, unless renewed.

JURISDICTION

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

4. Code Section 94875 states:

The Bureau for Private Postsecondary Education, as established by Section 6 of Chapter 635 of the Statutes of 2007, is continued in existence and shall commence operations. This chapter establishes the functions and responsibilities of the bureau, for the purposes of Section 6 of Chapter 635 of the Statutes of 2007. The bureau shall regulate private postsecondary educational institutions through the powers granted, and duties imposed, by this chapter. In exercising its powers, and performing its duties, the protection of the public shall be the bureau's highest priority. If protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

5. Code Section 94877 provides, in relevant part, that:

(a) The bureau shall adopt and shall enforce regulations to implement this chapter pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

....

6. Code section 23.7 states, "Unless otherwise expressly provided, 'license' means license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600."

7. Code section 477 states:

As used in this division:

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

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

STATUTORY PROVISIONS

8. Code Section 94930.5 states:

....

(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

1 institution as a main campus location in California, in an amount equal to 0.45
2 percent of the campus' total gross revenue derived from students in California, but
3 not to be less than two thousand five hundred dollars (\$2,500) and not to exceed sixty
4 thousand dollars (\$60,000). (B) An annual campus fee for each branch of the
5 institution in an amount equal to 0.45 percent of the branch's total gross revenue
6 derived from students in California, but not to be less than two thousand five hundred
7 dollars (\$2,500) and not to exceed sixty thousand dollars (\$60,000). (2) The amount
8 of the annual fees pursuant to paragraph (1) shall be proportional to the bureau's cost
9 of regulating institutions under this chapter, but shall not exceed seven hundred fifty
10 thousand dollars (\$750,000) for any institution.

11

12 9. Code Section 94931 states:

13 (a) A fee that is not paid on or before the 30th calendar day after the due date
14 for the payment of the fee shall be subject to a 25 percent late payment penalty fee.
15 California Private Postsecondary Education Act of 2009 77

16 (b) A fee that is not paid on or before the 90th calendar day after the due date
17 for payment of the fee shall be subject to a 35 percent late payment penalty fee.

18 10. Code Section 94934 states:

19 (a) As part of the compliance program, an institution shall submit an annual
20 report to the bureau, under penalty of perjury, signed by a responsible corporate
21 officer, by July 1 of each year, or another date designated by the bureau, and it shall
22 include the following information for educational programs offered in the reporting
23 period:

24 (1) The total number of students enrolled by level of degree or for a diploma.

25 (2) The number of degrees, by level, and diplomas awarded.

26 (3) The degree levels and diplomas offered.

27 (4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

28 (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.

(b) The bureau, by January 1, 2011, shall prescribe the annual report's format
and method of delivery.

. . . .

1 11. Code Section 94936 states:

2 (a) As a consequence of an investigation, which may incorporate any materials
3 obtained or produced in connection with a compliance inspection, and upon a finding
4 that the institution has committed a violation of this chapter or that the institution has
5 failed to comply with a notice to comply pursuant to Section 94935, the bureau shall
6 issue a citation to an institution for violation of this chapter, or regulations adopted
7 pursuant to this chapter.

8 (b) The citation may contain any of the following:

9 (1) An order of abatement that may require an institution to demonstrate how
10 future compliance with this chapter or regulations adopted pursuant to this chapter
11 will be accomplished.

12 (2) Notwithstanding Section 125.9 of the Business and Professions Code, an
13 administrative fine not to exceed five thousand dollars (\$5,000) for each violation.
14 The bureau shall base its assessment of the administrative fine on:

15 (A) The nature and seriousness of the violation.

16 (B) The persistence of the violation.

17 (C) The good faith of the institution.

18 (D) The history of previous violations.

19 (E) The purposes of this chapter.

20 (F) The potential harm to students.

21 ...

22 (c)(1) The citation shall be in writing and describe the nature of the violation
23 and the specific provision of law or regulation that is alleged to have been violated.

24 (2) The citation shall inform the institution of its right to request a hearing in
25 writing within 30 days from service of the citation.

26 (3) If a hearing is requested, the bureau shall select an informal hearing
27 pursuant to Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1
28 of Division 3 of Title 2 of the Government Code or a formal hearing pursuant to
29 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
30 Government Code.

31 (4) If a hearing is not requested, payment of the administrative fine is due 30
32 days from the date of service, and shall not constitute an admission of the violation
33 charged.

34 (5) If a hearing is conducted and payment of an administrative fine is ordered,
35 the administrative fine is due 30 days from when the final order is entered.

36 (6) The bureau may enforce the administrative fine as if it were a money
37 judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the
38 Code of Civil Procedure.

1 (d) All administrative fines shall be deposited in the Private Postsecondary
Education Administration Fund.

2 **REGULATORY PROVISIONS**

3 12. California Code of Regulations, title 5, section 74000 subdivision (e)(1) states that
4 “[i]f an institution fails to pay any fee and any penalty fees timely, the Bureau may initiate
5 proceedings to revoke the institution’s approval to operate for failure to pay fees.”

6 13. California Code of Regulations, title 5, section 74006 states:

7 (a) An institution's annual fee is due within 30 days of the date on which the
8 institution originally receives its approval to operate and each year thereafter on the
anniversary of the date of the original approval.

9 (b) An institution shall pay its annual fee in addition to any other applicable
10 fees.

11 (c) The annual institutional fee is based on the institution's annual revenue. For
purposes of this article, annual revenue is annual gross revenue.

12 14. California Code of Regulations, title 5, section 74110 states:

13 (a) The annual report required by Section 94934 of the Code shall include the
14 information required by this section, subsections (f) through (j) of section 74112, and
sections 94929.5 and 94934 of the Code for all educational programs offered in the
15 prior calendar year, and all of the following for the prior calendar year:

16 (1) Information regarding institutional branch campuses, including addresses
and programs offered at each campus, if applicable;

17 (2) Information regarding satellite locations, including addresses and with
18 which campus(es) the satellite location is affiliated, if applicable;

19 (3) Name of institutional accreditors for each branch and satellite campus, and
for each such campus at which any programs have programmatic accreditation, the
20 names of the programmatic accreditor for each such program, and effective dates for
each programmatic accreditation, if applicable;

21 (4) Information regarding participation in state and federal student loan and
22 grant programs, including the total amount of funding received from each source for
those students enrolled in an approved California school regardless of their state of
23 residency;

24 (5) Information regarding participation in other public funding programs,
including the amount of funding received from each public funding source; for
25 purposes of this section, public funding is any financial aid paid on behalf of students
or directly to an institution from any public source, such as the Workforce Investment
26 Act, any veterans' financial aid programs pursuant to Section 21.4253 of Title 38 of
the Code of Federal Regulations or any other financial aid program that is intended to
27 help students pay education-related expenses, including tuition, fees, room and board,
and supplies for education;

1 (6) The total percentage of institutional income that comes from any public
funding sources; and

2 (7) A blank copy of the institution's enrollment agreement and the catalog for
3 the reporting year.

4 (b) In addition to the information required by section 94934 of the Code and
this section provided under penalty of perjury, the institution shall have annual
5 financial statements prepared for the institution's prior fiscal year and signed under
6 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
7 preparation of financial statements shall comply with Section 74115 of this Division.
The Bureau may request that the institution immediately make available for
8 inspection to a representative of the Bureau, these financial statements at the offices
of the institution.

9 (c) As part of its annual report to the Bureau, every institution shall provide
graduate identification data for each student who graduated from the institution's
10 educational program(s), which shall include:

11 (1) The graduate's name and federal taxpayer identification number, which is
either the graduate's social security number (SSN) or individual taxpayer
12 identification number (ITIN). If the graduate does not have an SSN or ITIN, the
graduate's information shall be reported as "not available";

13 (2) The date of graduation;

14 (3) The following information regarding the educational program in which the
graduate was enrolled:

15 (A) The federal Bureau of Labor Statistic's Standard Occupation Classification
16 (SOC) codes for which the institution has identified that the program prepares its
graduates when required for the reporting of job placement rates under subdivision
17 (i)(3) of section 74112 of this Division;

18 (B) Educational program's name;

19 (C) Program length, as measured in clock hours or credit hours; and

20 (D) Type or title of degree, diploma or certificate awarded.

21 (4) The amount of federal student loan debt for the graduate, if any, as reported
22 by the institution under subdivision (g) of section 74112 of this Division.

23 (d) Specific Timeframes for Reporting Graduate Identification Data:

24 (1) The written notice required by Section 94892.6(b)(5) of the Code shall
inform the institution that the Director has certified that the Bureau's information
25 technology system has been updated and is capable of processing the data required by
that Section and that the institution has 120 days from receipt of the notice to comply
26 with this section.

27 (2) The first annual report submitted by an institution that contains the graduate
identification data required to be reported in subsection (c) shall include information
28 collected on all students who graduated from January 1, 2020 through the end of the
prior calendar year. Subsequent annual reports containing graduate identification data

1 filed by an institution shall include information about students who graduated in the
2 prior calendar year only.

3 (e) An institution shall file its annual report by December 1st of each year. The
4 Bureau may extend the period for filing if the institution demonstrates evidence of
5 substantial need but in no case longer than 60 days. The institution shall not change
6 the date of its filing its annual report because of a change in the fiscal year without
7 the Bureau's approval.

8 (f) The annual report shall be electronically filed by submitting the information
9 required by section 94934 of the Code and this section via the Bureau's online annual
10 reports portal designated on the Bureau's website at: www.bppe.ca.gov, and
11 electronically uploading, as directed, the School Performance Fact Sheet, the
12 enrollment agreement, the school catalog and the graduate identification data required
13 by this section. The following conditions relate to such electronic filings:

14 (1) Institutions submitting their annual report submission shall first have a
15 responsible institution representative register the institution for a user account by
16 creating a user name, password, email address, and the institution representative's
17 first and last name, primary phone number, and address.

18 (2) As part of the annual report, the institution shall provide standard reporting
19 and contact information through the online portal, including:

20 (A) the report year;

21 (B) institution's approval code;

22 (C) institution's name;

23 (D) institution's physical address;

24 (E) the form of business organization of the institution (sole proprietorship, for-
25 profit corporation, non-profit corporation, or limited liability company (LLC));

26 (F) a statement whether the institution is current on its annual fees; and

27 (G) the institution's website address, or notice that it does not maintain an
28 internet website if it does not do so.

(3) The graduate identification data reported by the institution shall be provided
in the following application and file format: in an Excel spreadsheet (.xls or .xlsx file
format), or a text file with a semi-colon, comma, or pipe delimiter (.csv or .txt file
format).

(4) Electronic Signature: When a signature is required by the particular
instructions of any filing to be made through the online portal, including any
attestation under penalty of perjury as required by Section 94934 of the Code, a
responsible institutional representative of the institution shall affix their electronic
signature to the filing by typing their name in the appropriate field and submitting the
filing via the Bureau's online portal. Submission of a filing in this manner shall
constitute evidence of legal signature by any individual whose name is typed on the
filing.

(5) When considered filed with the Bureau: Solely for purposes of a filing made
through the online portal an annual report is considered filed when all information

1 required by this section has been submitted by the institution and the institution has
2 received an email to the email address associated with their filing that their
3 submission has been received by the Bureau. Receipt of this email does not constitute
4 confirmation that the information submitted complies with the requirements of this
5 section.

(6) The financial statements referenced in subsection (b), which are not
permitted to be filed via the Bureau's online portal, shall be filed by providing or
mailing hard copies directly to the Bureau's Annual Report Unit at the mailing
address of the principal office of the Bureau as provided in section 70020.

6 15. California Code of Regulations, title 5, section 75020 states, in part:

7 (a) The Bureau Chief, or his or her designee, or the Director's designee, is
8 authorized to issue citations containing orders of abatement and/or administrative
9 fines pursuant to section 94936 of the Code against approved private, postsecondary
institutions that have committed any acts or omissions that are in violation of the Act
or any regulation adopted pursuant thereto.

10 . . .

11 (c) In addition to the requirements of section 94936 of the Code, each citation
12 shall inform the cited institution or person that:

13 (1) if a hearing pursuant to the Administrative Procedure Act (APA) is not
14 requested, payment of the administrative fine is due 30 days from the date of service,
and shall not constitute an admission of the violation charged.

15 . . .

16 (3) if the cited institution or person desires an informal conference to contest
17 the finding of a violation prior to an APA hearing, the informal conference shall be
requested by written notice to the Bureau within 30 days from service of the citation;

18 (4) failure to comply with any order of abatement within the time set forth in
19 the citation, unless the citation is being appealed, may result in disciplinary action
being taken by the Bureau; and

20 (5) the Bureau may enforce the administrative fine as if it were a money
21 judgment pursuant to the California Code of Civil Procedure (beginning with section
680.010).

22 (d) Each citation shall be served on the cited institution or person, in person, or
23 by certified and regular mail at the address of record on file with the Bureau.
Citations served by certified and regular mail shall be deemed "served" on the date of
mailing.

24

25 16. California Code of Regulations, title 5, section 75040 states, in part:

26 (a) Pursuant to section 94936(c)(2) of the Code, a cited institution or person
27 may, within 30 days of service of the citation, request a hearing in writing to the
Bureau, or it is waived. In addition to contesting a citation by requesting a hearing,
28 the cited institution or person may, within the same 30 days, submit a written request
to the Bureau for an informal conference.

1 (b) The Bureau Chief, or his or her designee, or the Director, or his or her
2 designee, shall within 30 days from the Bureau's receipt of a written request for an
3 informal conference, hold an informal conference with the cited institution or person.
4 The 30-day period may be extended by the Bureau Chief or the Director for good
5 cause. The informal conference may be by telephone.

6 (c) Following the informal conference, the Bureau Chief, or his or her designee,
7 or the Director, or his or her designee, will affirm, modify, or dismiss the citation,
8 including any fine assessed and/or order of abatement issued. A written order
9 affirming, modifying, or dismissing the original citation shall be served on the cited
10 institution or person within 30 days from the informal conference. If the order affirms
11 or modifies the original citation, said order shall fix a reasonable period of time for
12 abatement of the violation and/or payment of the fine of not more than 30 days.

13 ...

14 (g) If a written request for a hearing pursuant to section 94936(c)(2) of the
15 Code, or for an informal conference as provided in subsection (a), or both, is not
16 submitted to the Bureau within 30 days from service of the citation, the cited
17 institution or person is deemed to have waived the right to an informal conference
18 and/or administrative hearing.

19 17. California Code of Regulations, title 5, section 75050 states:

20 ...

21 (b) Failure of an applicant or institution issued an approval to operate to abate
22 the violation or to pay the fine within the time allowed is a ground for denial or
23 discipline of an approval to operate.

24 ...

25 18. California Code of Regulations, title 5, section 76130 states:

26 (a)(1) A qualifying institution shall collect the (Student Trust Recovery Fund)
27 assessment from each student in an educational program at the time it collects the first
28 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.

(2) The assessment to be collected from a re-enrolling student shall be limited
to any amount that is due after crediting any prior assessment amount paid by the
student. The enrollment agreement shall clearly identify any prior STRF assessment
paid by the student.

(b) A qualifying institution shall complete the STRF Assessment report 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

1 (4) January 31 for the fourth quarter.

2 If the due date falls on a Saturday, Sunday, or State or federal holiday, the due
3 date shall be extended to the next regular business day for the Bureau.

4 (c) The STRF Assessment report shall contain the following information:

5 (1) Total number of students who signed enrollment agreements for educational
6 programs during the reporting period; and

7 (2) Total number of students eligible for STRF who signed enrollment
8 agreements for educational programs during the reporting period; and

9 (3) The total number of students who signed their enrollment agreement during
10 the reporting period, were eligible for STRF, and who made their first payment
11 during the reporting period; and

12 (4) The total number of students who signed their enrollment agreement in a
13 previous reporting period, were eligible for STRF, and who made their first payment
14 during the current reporting period; and

15 (5) Total amount of institutional charges after rounding each student's
16 institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF
17 assessment was collected in the reporting period; and

18 (6) Current contact telephone number of the person preparing the form; and

19 (7) A declaration dated and signed under penalty of perjury by the person
20 preparing the form that the form and any attachments are true and correct.

21 (d) In the event of a school closure, any collected assessments shall be remitted
22 to the Bureau within seven days following the cessation of instruction.

23 (e) Submission of all prior reports and assessments required by this section is a
24 condition of renewal.

25 **COST RECOVERY**

26 19. Section 94937, subdivision (c), of the Code states, "The bureau may seek
27 reimbursement pursuant to Section 125.3 of the Business and Professions Code."

28 20. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

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FACTUAL ALLEGATIONS

Citation Number 2122035

21. On August 18, 2021, the Bureau issued Citation Number 2122035 to Respondent for failure to submit its second quarter 2021 Student Tuition Recovery Assessment Reporting Fund (STRF) Assessment Reporting Form, STRF assessments collected from students, and for failure to submit its 2021 annual fee. The Bureau issued an administrative fine of \$50.00 and ordered Respondent to submit the delinquent STRF Assessment Reporting Form, STRF assessments collected from students, and 2021 annual fee with the requisite late payment penalty. Respondent did not appeal the citation and paid the required administrative fine. The Bureau received the 2021 STRF Assessment Reporting Forms and STRF assessments collected from students on December 8, 2021. To date, Respondent has not paid its 2021 annual fee or late payment penalty fee.

Citation Number 2223034

22. On November 9, 2022, the Bureau issued Citation Number 2223034 to Respondent for failure to submit its 2021 third and fourth quarter STRF Assessment Reporting Forms, for failure to submit its 2022 first and second quarter STRF Assessment Reporting Forms, and for failure to pay the annual fee and applicable late payment penalty fees for the 2022 calendar year. The citation assessed an administrative fine of \$501.00. The Citation issued an order of abatement requiring Respondent submit delinquent STRF Assessment Reporting Forms and STRF assessments collected from students. The order of abatement further ordered Respondent submit its annual fee and 90-day late payment penalty fee for the 2022 calendar year.

23. On January 3, 2023, the Bureau received payment of the administrative fine amount of \$501.00. The Bureau did not receive the required order of abatement items. The Bureau mailed demand letters for abatement on January 20, 2023, February 8, 2023, and March 14, 2023, respectively. To date, Respondent has failed to comply with the order of abatement set forth in Citation Number 2223034.

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1 **Citation Number 2223085**

2 24. On April 20, 2023, the Bureau issued Citation Number 2223085 to Respondent for
3 failure to submit all components of its 2021 Annual Report as well as failure to submit its third
4 and fourth quarter 2022 STRF Assessment Reporting Forms and STRF assessments collected
5 from students. The Bureau assessed an administrative fine of \$6,000.00. The Citation issued an
6 order of abatement requiring Respondent submit all components of the 2021 Annual Report and
7 submit its third and fourth quarter 2022 STRF Assessment Reporting Forms and STRF
8 assessments collected from students.

9 25. On May 26, 2023, Respondent appealed the citation and an informal conference
10 was held on July 7, 2023. On July 17, 2023, the Bureau issued an Affirmed Citation as
11 Respondent did not provide new substantial facts presented during the conference. On July 17,
12 2023, Respondent submitted the STRF Assessment Reporting Forms for the third and fourth
13 quarter of 2022. However, Respondent did not include all components of the 2021 Annual
14 Report or payment of the administrative fine. A demand letter for payment of fine and order of
15 abatement was mailed on September 27, 2023.

16 **CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Citations)**

18 26. Respondent has subjected its Approval to Operate to disciplinary action under Code
19 section 94936 and California Code of Regulations, title 5, section 75050, subdivision (b), in that
20 Respondent failed to comply with citation numbers 2122035, 2223034, and 2223085 as more
21 fully set forth in paragraphs 21 through 25 above and incorporated herein by reference.

22 **PRAYER**

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

26 1. Revoking or suspending Approval to Operate Number 88680836, issued to JDS
27 Security Training owned by JDS Security Training Inc.;

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2. Ordering JDS Security Training to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 7/11/2024

"Original Signature on File"
DEBORAH COCHRANE
Chief
Bureau for Private Postsecondary
Education
Department of Consumer Affairs
State of California
Complainant

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