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8	BEFOR DEPARTMENT OF C	
9	FOR THE BUREAU FOR PRIVATE STATE OF C	
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11	In the Matter of the Statement of Issues	Case No. 1002980
12 13	Against:	OAH No. 2018030600
13	A-1 TRUCK DRIVING SCHOOL INC. also known as A 1 Truck Driving School, Inc.	SECOND AMENDED STATEMENT OF
15	Application for Renewal of Approval to	SECOND AMENDED STATEMENT OF ISSUES
16	Operate and Offer Educational Programs for Non-Accredited Institutions	
17	Institution Code: 0106221	
18 .	Respondent.	· · · ·
19		
20	Complainant alleges:	
21	PARTIES	
22	1. Dr. Michael Marion, Jr. ("Complaina	nt") brings this Second Amended Statement of
23	Issues solely in his official capacity as the Chief of	of the Bureau for Private Postsecondary
24	Education, Department of Consumer Affairs.	· · ·
25	2. On or about December 13, 2013, the	Bureau for Private Postsecondary Education
26	received an Application for Renewal of Approval	to Operate and Offer Educational Programs for
27	Non-Accredited Institutions from Respondent A-	l Truck Driving School Inc., also known as A 1
28 Truck Driving School, Inc. ("Respondent"), a California corporation. Between January 2 1		ifornia corporation. Between January 2014 and 1
	In the Matter of the	SECOND AMENDED STATEMENT OF ISSUES Statement of Issues Against A-1 Truck Driving School Inc.

In the Matter of the Statement of Issues Against A-1 Truck Driving School Inc.

1	July 2017, the Bureau and Respondent conferred regarding Respondent's application, including	
2	Respondent's transmittal of additional application materials. The Bureau denied the application	
3	via a Notice of Denial of Application for Renewal of Approval to Operate on or about August 15,	
4	2017. On or about September 28, 2017, Respondent submitted to the Bureau a request for	
5	administrative hearing.	
6	JURISDICTION	
7	3. This Second Amended Statement of Issues is brought before the Director of the	
8	Department of Consumer Affairs ("Director") for the Bureau, under the authority of the following	
9	laws. All section references are to the Education Code unless otherwise indicated.	
10	4. Section 94885, subdivision (a) states, in part:	
11	"(a) The bureau shall adopt by regulation minimum operating standards for an institution	
12	that shall reasonably ensure that all of the following occur:	
13	"(1) The content of each educational program can achieve its stated objective.	
14	••••	
15	"(3) The facilities, instructional equipment, and materials are sufficient to enable students to	
16	achieve the educational program's goals.	
17		
18	(7) That, upon satisfactory completion of an educational program, the institution gives	
19	students a document signifying the degree or diploma awarded.	
20		
21	"(9) The institution is maintained and operated in compliance with this chapter and all other	
22	applicable ordinances and laws."	
23	5. Section 94886 states:	
24	"Except as exempted in Article 4 (commencing with Section 94874) or in compliance with	
25	the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,	
26	conduct, or do business as a private postsecondary educational institution in this state without	
27	obtaining an approval to operate under this chapter."	
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Section 94887 states: 6.

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1	0. Section 24007 succes.
2	"An approval to operate shall be granted only after an applicant has presented sufficient
3	evidence to the bureau, and the bureau has independently verified the information provided by the
4	applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
5	has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
6	for an approval to operate if the application does not satisfy those standards."
7	STATUTORY AND REGULATORY PROVISIONS
8	7. Section 94909 states, in part:
9	"(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
10	prospective student, either in writing or electronically, with a school catalog containing, at a
11	minimum, all of the following:
12	••••
13	(5) A description of the programs offered and a description of the instruction provided in
14	each of the courses offered by the institution, the requirements for completion of each program,
15	including required courses, any final tests or examinations, any required internships or
16	externships, and the total number of credit hours, clock hours, or other increments required for
17	completion.
18	· · · ·
19	"(8) A detailed description of institutional policies in the following areas:
20	
21	"(B) Cancellation, withdrawal, and refund policies, including an explanation that the
22	student has the right to cancel the enrollment agreement and obtain a refund of charges paid
. 23	through attendance at the first class session, or the seventh day after enrollment, whichever is
24	later. The text shall also include a description of the procedures that a student is required to
25	follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund
26	consistent with the requirements of Article 13 (commencing with Section 94919).
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	SECOND AMENDED STATEMENT OF ISSUES In the Matter of the Statement of Issues Against A-1 Truck Driving School Ind

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

"(15) The following statement:

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

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

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Section 94911, subdivision (h) states:

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

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

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Section 94913, subdivision (a)(2) states:

23 "(a) An institution that maintains an Internet Web site shall provide on that Internet Web
24 site all of the following:

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26 "(2) A School Performance Fact Sheet for each educational program offered by the
27 institution."

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10. Section 94919 states:

"(a) An institution that participates in the federal student financial aid programs complies with this article by complying with applicable regulations of the federal student financial aid programs under Title IV of the federal Higher Education Act of 1965.

"(b) The institution shall advise each student that a notice of cancellation shall be in writing, and that a withdrawal may be effectuated by the student's written notice or by the student's conduct, including, but not necessarily limited to, a student's lack of attendance.

8 "(c) The institution shall also provide a pro rata refund of nonfederal student financial aid
9 program moneys paid for institutional charges to students who have completed 60 percent or less
10 of the period of attendance.

"(d) Institutions shall refund 100 percent of the amount paid for institutional charges, less a
reasonable deposit or application fee not to exceed two hundred fifty dollars (\$250), if notice of
cancellation is made through attendance at the first class session, or the seventh day after
enrollment, whichever is later."

11. California Code of Regulations, title 5, section 71475 states, in part:
"…

"(e) The institution shall submit at the time it applies for renewal current financial
statements that meet the requirements of section 74115 as follows: (1) for an institution with
annual gross revenues of \$500,000 and over, statements shall be audited; (2) for an institution
with annual gross revenues less than \$500,000, statements shall be reviewed.

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"(p) If an institution receives financial aid because its students qualify for it under any state
or federal financial aid program, the application shall include a statement of its policies, practices,
and disclosures regarding financial aid. If there have been no substantive changes since the last
submission, the institution may so state and is not required to submit documentation.

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"(q) The institution shall include in its application copies of advertising and other
 statements disseminated to the public in any manner by the institution or its representatives that
 concern, describe, or represent each of the following:

"(1) The institution.

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"(2) Each educational program offered by the institution.

"(3) If advertising is broadcast by television or radio, the application shall also include a copy of the script.

"(r) The institution shall identify and describe, in the application, the educational program it
offers, or proposes to offer. If the educational program is a degree program, the institution shall
identify the full title which it will place on each degree awarded. If there have been no substantive
changes since the last submission, the institution may so state and is not required to submit
documentation.

"(s) The application shall include, in addition to the general title, such as "Bachelor of Arts"
or "Master of Science", the name of a specific major field of learning involved. If there have been
no substantive changes since the last submission, the institution may so state and is not required
to submit documentation.

"(t) In addition, the institution shall list in the application, the following for each
educational program offered unless there have been no substantive changes since the last
submission. If there have been no substantive changes made the institution may so state and is not
required to provide documentation.

21 "(1) The admissions requirements, including minimum levels of prior education,
22 preparation, or training;

23 "(2) If applicable, information regarding the ability-to-benefit examination as required by
24 section 94904 of the Code.

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

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

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1	"(5) The mode of instruction;	
2	"(6) The graduation requirements.	
3	"(7) Whether the educational program is designed to fit or prepare students for employment	
<u>4</u>	in any occupation. If so, the application shall identify each occupation and job title to which the	
5	institution represents the educational program will lead.	
6	•••	
7	"(w)(2) The institution shall submit current, audited financial statements at the time it	
8	applies for approval to operate. Each set of financial statements shall comply with Section 74115	
9	of this chapter.	
10	»» • • • •	
11	12. California Code of Regulations, title 5, section 71810, subdivision (b) states, in	
12	part:	
13	"(b) The catalog shall contain the information prescribed by Section 94909 of the Code and	
14	all of the following:	
15	· · · · · · · · · · · · · · · · · · ·	
16	"(6) The institution's policies and practices regarding any form of financial aid, including	
17	all consumer information which the institution is required to disclose to the student under any	
18	state or federal financial aid program;	
19	23	
20	13. California Code of Regulations, title 5, section 74115 states, in part:	
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22	"(b) A set of financial statements shall contain, at a minimum, a balance sheet, an income	
23	statement, and a cash flow statement, and the preparation of financial statements, shall comply	
24	with all of the following:	
25	"(1) Audited and reviewed financial statements shall be conducted and prepared in	
26	accordance with the generally accepted accounting principles established by the American	
27	Institute of Certified Public Accountants by an independent certified public accountant who is not	
28	an employee, officer, or corporate director or member of the governing board of the institution. 7	
	SECOND AMENDED STATEMENT OF ISSUES In the Matter of the Statement of Issues Against A-1 Truck Driving School Inc.	

SECOND AMENDED STATEMENT OF ISSUES In the Matter of the Statement of Issues Against A-1 Truck Driving School Inc.

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2	"(d) 'Current' with respect to financial statements means completed no sooner than 120
3	days prior to the time it is submitted to the Bureau, and covering no less than the most recent
4	complete fiscal year. If more than 8 months will have elapsed between the close of the most
5	recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no
6	less than five months of that current fiscal year."
·7 8	FIRST CAUSE FOR DENIAL OF APPLICATION (Enrollment Agreement) (Educ. Code §§ 94887 and 94911, subd. (h))
9	14. Respondent's application is subject to denial because Respondent failed to offer a
10	compliant enrollment agreement. (Educ. Code §§ 94887 and 94911, subd. (h)). In particular,
11	Respondent's proposed enrollment agreement fails to contain the complete required statement
12	regarding the "NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
13	CREDENTIALS EARNED AT OUR INSTITUTION."
14	SECOND CAUSE FOR DENIAL OF APPLICATION
15,	(Federal Aid Policies and Disclosures) (Educ. Code § 94887 and Cal. Code Regs., title 5, § 71475, subd. (p))
16	15. Respondent's application is subject to denial because Respondent's website refers to
17	state financial aid programs, but Respondent's proposed application fails to include a statement of
18	its policies, practices, and disclosures regarding financial aid. (Educ. Code § 94887 and Cal.
19	Code Regs., title 5, § 71475, subd. (p)).
20	THIRD CAUSE FOR DENIAL OF APPLICATION
21	(Advertising) (Educ. Code § 94887 and Cal. Code Regs., title 5, § 71475, subd. (q))
22	16. Respondent's application is subject to denial because Respondent failed to include
23	copies of advertising and other statements disseminated to the public in any manner by the
24	institution or its representatives that concern, describe, or represent the institution and each
25	educational program offered by the institution. (Educ. Code § 94887 and Cal. Code Regs., title 5,
26	§ 71475, subd. (q)).
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	SECOND AMENDED STATEMENT OF ISSUES In the Matter of the Statement of Issues Against A-1 Truck Driving School Inc.

FOURTH CAUSE FOR DENIAL OF APPLICATION

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(Program Descriptions) 2 (Educ. Code § 94887 and Cal. Code Regs., title 5, § 71475, subds. (r), (s) and (t)) Respondent's application is subject to denial because Respondent failed to identify 3 17. and describe in its application all education programs it offers or proposes to offer, including the 4 admissions requirements; if applicable, the information regarding the ability-to-benefit 5 examination as required by Section 94904; the types and amount of general education required; 6 the title of the educational programs and other components of instruction offered, including a 7 8 description of the level of the courses (e.g., below college level, undergraduate level, graduate level); the mode of instruction; the graduation requirements; whether the educational program is 9 designed to fit or prepare students for employment in any occupation and, if so, each occupation 10 and job title to which the institution represents the educational program will lead. (Educ, Code § 11 94887 and Cal. Code Regs., title 5, § 71475, subds. (r), (s) and (t)). 12 13 FIFTH CAUSE FOR DENIAL OF APPLICATION 14 (Financial Statements) (Educ. Code § 94887; and Cal. Code Regs., title 5, §§ 71475, subds. (e) and (w)(2), and 74115, 15 subds. (b)(1) and (d)Respondent's application is subject to denial because Respondent failed to provide 18. 16 compliant financial statements. (Educ. Code § 94887; and Cal. Code Regs., title 5, §§ 71475, 17 subds. (e) and (w)(2), and 74115, subds. (b)(1) and (d)). In particular: 18 Respondent failed to submit "current" financial statements. (Cal. Code Regs., 19 a. title 5, §§ 71475, subd. (w)(2) and 74115, subd. (d)). 20b. 21 Respondent failed to submit reviewed or audited financial statements. (Cal. Code Regs., title 5, § 71475, subd. (e)). 22 Respondent submission fails to indicate that the financial statements were 23 c. prepared according to generally accepted accounting principles. (Cal. Code Regs., title 5, §§ 24 71475, subd. (w)(2) and 74115, subd. (b)(1)). 25 26 27 28 9

1 2	SIXTH CAUSE FOR DENIAL OF APPLICATION (School Catalog) (Educ. Code §§ 94887 and 94909, subds. (a)(5), (a)(8)(B), and (a)(9); and Cal. Code Regs., title 5, § 71810, subd. (b)(6))
3	19. Respondent's application is subject to denial because Respondent failed to offer a
4	compliant school catalog. (Educ. Code §§ 94887 and 94909, subds. (a)(5), (a)(8)(B), and (a)(9);
5	and Cal. Code Regs., title 5, § 71810, subd. (b)(6)). In particular:
6	a. Respondent's proposed catalog fails to include a description of the programs
7	offered and a description of the instruction provided in each of the courses offered by the
8	institution, the requirements for completion of each program, including required courses, any
9	final tests or examinations, any required internships or externships, and the total number of credit
10	hours, clock hours, or other increments required for completion. (Educ. Code § 94909, subd.
11	(a)(5)).
12	b. Respondent's proposed catalog fails to state the schedule of total charges for a
13	period of attendance and an estimated schedule of total charges for the entire educational
14	program. (Educ. Code § 94909, subd. (a)(9)).
15	c. Respondent's proposed catalog fails to include the complete statement
16	regarding student refunds required by Education Code section 94909, subdivision (a)(8)(B).
17	d. Respondent's proposed catalog states that financial aid is not available, but
18	Respondent's website refers to available financial aid programs. These statements are
19	inconsistent and, as a result, Respondent's catalog fails to state its policies and practices regarding
20	any form of financial aid, including all consumer information which the institution is required to
21	disclose to the student under any state or federal financial aid program. (Cal. Code Regs., title 5,
22	§ 71810, subd. (b)(6)).
23	SEVENTH CAUSE FOR DENIAL OF APPLICATION
24	(Website) (Educ. Code §§ 94887 and 94913, subd. (a)(2))
25	20. Respondent's application is subject to denial because Respondent's proposed Internet
26	website is not compliant. (Educ. Code §§ 94887 and 94913, subd. (a)(2)). In particular,
27	Respondent's proposed website fails to provide a School Performance Fact Sheet for each
28	educational program offered by the institution.
	10
	SECOND AMENDED STATEMENT OF ISSUES In the Matter of the Statement of Issues Against A-1 Truck Driving School Inc.

1	PRAYER
2	WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
3	Second Amended Statement of Issues and that, following the hearing, the Director of the
4	Department of Consumer Affairs issue a decision:
5	1. Denying Respondent's Application for Renewal of Approval to Operate and Offer
6	Educational Programs for Non-Accredited Institutions; and
7	2. Taking such other and further action as deemed necessary and proper.
8	
9	alation of the
10	DATED:
11	DR. MICHAEL MARION, JR. Bureau Chief
12	Bureau for Private Postsecondary Education Department of Consumer Affairs State of California
13	Complainant
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	Second Amended Statement of Issues In the Matter of the Statement of Issues Against A-1 Truck Driving School Inc.