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

12 In the Matter of the Statement of Issues
Against:

13 **A-1 TRUCK DRIVING SCHOOL INC.**
14 **also known as A 1 Truck Driving School,**
Inc.

15 **Application for Renewal of Approval to**
16 **Operate and Offer Educational Programs**
for Non-Accredited Institutions

17 **Institution Code: 0106221**

18 Respondent.

Case No. 1002980

OAH No. 2018030600

19 **SECOND AMENDED STATEMENT OF**
20 **ISSUES**

21 Complainant alleges:

22 PARTIES

23 1. Dr. Michael Marion, Jr. ("Complainant") brings this Second Amended Statement of
24 Issues solely in his official capacity as the Chief of the Bureau for Private Postsecondary
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-1 Truck Driving School Inc., also known as A 1
28 Truck Driving School, Inc. ("Respondent"), a California corporation. Between January 2014 and

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

3 ...

4 “(15) The following statement:

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

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

16 ”

17 8. **Section 94911, subdivision (h)** states:

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

19 ...

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.”

22 9. **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:

25 ...

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

28 ////

1 10. **Section 94919** states:

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

5 “(b) The institution shall advise each student that a notice of cancellation shall be in
6 writing, and that a withdrawal may be effectuated by the student's written notice or by the
7 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.

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

15 11. **California Code of Regulations, title 5, section 71475** states, in part:

16 “... ”

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

21 “... ”

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

26 //////

27 //////

28 //////

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

4 “(1) The institution.

5 “(2) Each educational program offered by the institution.

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

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

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

17 “(t) In addition, the institution shall list in the application, the following for each
18 educational program offered unless there have been no substantive changes since the last
19 submission. If there have been no substantive changes made the institution may so state and is not
20 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.

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

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

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
4 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 ”

20 **13. California Code of Regulations, title 5, section 74115** states, in part:

21 “... ”

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.

1
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 FIRST CAUSE FOR DENIAL OF APPLICATION

8 (Enrollment Agreement)

9 (Educ. Code §§ 94887 and 94911, subd. (h))

10 14. Respondent’s application is subject to denial because Respondent failed to offer a
11 compliant enrollment agreement. (Educ. Code §§ 94887 and 94911, subd. (h)). In particular,
12 Respondent’s proposed enrollment agreement fails to contain the complete required statement
13 regarding the “NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
14 CREDENTIALS EARNED AT OUR INSTITUTION.”

15 SECOND CAUSE FOR DENIAL OF APPLICATION

16 (Federal Aid Policies and Disclosures)

17 (Educ. Code § 94887 and Cal. Code Regs., title 5, § 71475, subd. (p))

18 15. Respondent’s application is subject to denial because Respondent’s website refers to
19 state financial aid programs, but Respondent’s proposed application fails to include a statement of
20 its policies, practices, and disclosures regarding financial aid. (Educ. Code § 94887 and Cal.
21 Code Regs., title 5, § 71475, subd. (p)).

22 THIRD CAUSE FOR DENIAL OF APPLICATION

23 (Advertising)

24 (Educ. Code § 94887 and Cal. Code Regs., title 5, § 71475, subd. (q))

25 16. Respondent’s application is subject to denial because Respondent failed to include
26 copies of advertising and other statements disseminated to the public in any manner by the
27 institution or its representatives that concern, describe, or represent the institution and each
28 educational program offered by the institution. (Educ. Code § 94887 and Cal. Code Regs., title 5,
§ 71475, subd. (q)).

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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
10 DATED: 9/20/18


11 DR. MICHAEL MARION, JR.
12 Bureau Chief
13 Bureau for Private Postsecondary Education
14 Department of Consumer Affairs
15 State of California
16 *Complainant*

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