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

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14 In the Matter of the Accusation Against:

Case No. 1005006

15 **COMMERCIAL DRIVERS LEARNING**
16 **CENTER, LLC**
17 **1787 TRIBUTE ROAD, SUITE L**
18 **SACRAMENTO, CA 95815**
19 **Approval to Operate No. 64417859**

ACCUSATION

Respondent.

20 **PARTIES**

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

24 2. On or about April 22, 2011, the Bureau for Private Postsecondary Education (Bureau)
25 issued Approval to Operate No. 64417859 to Commercial Drivers Learning Center, LLC,
26 (Respondent). The Approval to Operate will expire on October 31, 2022, unless renewed.

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JURISDICTION

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

4. Section 94817 of the Code states:

‘Approval to operate’ or ‘approval’ means the authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs, as well as the written document issued to an institution signifying its approval to operate.

5. Section 94932 of the Code states:

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

6. Section 94933 of the Code states, in pertinent part:

The bureau shall provide an institution with the opportunity to remedy noncompliance, impose fines, place the institution on probation, or suspend or revoke the institution's approval to operate, in accordance with this article, as it deems appropriate based on the severity of an institution's violations of this chapter, and the harm caused to students.

7. Section 94937 of the Code states, in pertinent part:

(a) As a consequence of an investigation, and upon a finding that an institution has committed a violation, the bureau may place an institution on probation or may suspend or revoke an institution's approval to operate for:

(1) Obtaining an approval to operate by fraud.

(2) A material violation or repeated violations of this chapter or regulations adopted pursuant to this chapter that have resulted in harm to students. For purposes of this paragraph, “material violation” includes, but is not limited to, misrepresentation, fraud in the inducement of a contract, and false or misleading claims or advertising, upon which a student reasonably relied in executing an enrollment agreement and that resulted in harm to the student.

...

1 (c) The bureau may seek reimbursement pursuant to Section 125.3 of the
2 Business and Professions Code.

3 ...

4 **STATUTORY PROVISIONS**

5 8. Section 94923 of the Code states, in pertinent part:

6 (a) The Student Tuition Recovery Fund relieves or mitigates economic loss
7 suffered by a student while enrolled in an institution not exempt from this article
8 pursuant to Article 4 (commencing with Section 94874), who, at the time of the
9 student's enrollment, was a California resident or was enrolled in a California
10 residency program, prepaid tuition, and suffered economic loss.

11 9. Section 94927 of the Code states:

12 An institution shall be considered in default of the enrollment agreement when
13 an educational program is discontinued or canceled or the institution closes prior to
14 completion of the educational program. When an institution is in default, student
15 institutional charges may be refunded on a pro rata basis if the bureau determines that
16 the school has made provision for students enrolled at the time of default to complete
17 a comparable educational program at another institution at no additional charge to the
18 students beyond the amount of the total charges in the original enrollment agreement.
19 If the institution does not make that provision, a total refund of all institutional
20 charges shall be made to students.

21 10. Section 94936 of the Code states:

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

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

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

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

(A) The nature and seriousness of the violations.

(B) The persistence of the violation.

(C) The good faith of the institution.

1 (D) The history of previous violations.

2 (E) The purposes of this chapter.

3 (F) The potential harm to students.

(3) 4 An order to compensate students for harm, including a refund of moneys paid to the institution; by or on behalf of the student, as determined by the bureau.

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

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

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

8 (4) If a hearing is not 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.

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

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

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

12 **REGULATORY PROVISIONS**

13 11. Section 75050 of title 5 of the California Code of Regulations (5 CCR 75050) states:

14 (a) If a cited institution or person that or who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond the institution's or person's control after the exercise of reasonable diligence, the institution or person may request an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

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

16 (c) If an informal conference or hearing is not requested, payment of the fine and/or compliance with any order of abatement shall not constitute an admission of the violation charged and shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

1 12. 5 CCR 76130 states:

2 (a)(1) A qualifying institution shall collect the assessment from each student in
3 an educational program at the time it collects the first payment from or on behalf of
4 the student at or after enrollment. The assessment shall be collected for the entire
5 period of enrollment, regardless of whether the student pays the institutional charges
6 in increments.

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

11 (b) A qualifying institution shall complete the STRF assessment report and
12 remit it with the STRF assessments collected from students to be received by the
13 Bureau no later than the last day of the month following the close of the quarter as
14 follows:

15 (1) April 30 for the first quarter;

16 (2) July 31 for the second quarter;

17 (3) October 31 for the third quarter; and

18 (4) January 31 for the fourth quarter.

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

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

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

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

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

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

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

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

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

(d) In the event of a school closure, any collected assessments shall be remitted

to the Bureau within seven days following the cessation of instruction.

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

COST RECOVERY

13. Under section 94937(c) of the Code and section 125.3 of the Business and Professions Code, the Bureau may request the administrative law judge to direct a licensee 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.

FACTUAL ALLEGATIONS

14. On or about August 27, 2020, the Bureau issued Citation No. 2021065 to Respondent as a result of violations found through an investigation conducted after the Bureau received eleven complaints. The complaints alleged Respondent failed to provide quality instruction, to provide operational vehicles for students to practice with, and to provide operational vehicles for the Class A Drivers Exam. The investigation found the institution was in violation of Bureau laws and regulations, which resulted in the issuance of the citation for the following violations: Required Notices and Teach-Out Plan; Institutions in Default of Enrollment Agreement; Administration; Faculty; Facilities and Equipment; Collection and Submission of Assessments; Annual Fee, Fee Schedule, and Late Payment. Respondent did not request a hearing on the citation.

15. As a result of Citation No. 2021065, Respondent was ordered to comply with Orders of Abatement and assessed a fine of \$16,050.00, to be satisfied within 30 days. To date, Respondent has failed to submit payment for the fine or submit documents to satisfy the Order of Abatement.

16. On or about October 13, 2020, Bureau staff conducted an unannounced site visit of Respondent's site, and found violations during the visit.

17. On or about November 18, 2020, the Bureau's Administration Unit referred Respondent to the Discipline Unit for failure to submit its Student Tuition Recovery Fund (STRF) form for the Third Quarter of 2020.

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1 18. On or about January 14, 2021, the Bureau issued Citation No. 2021177 to Respondent
2 because it failed to file its annual report for the 2018 and 2019 calendar years, failed to maintain
3 required student records, and failed to submit the STRF Assessment Reporting Form for the Third
4 Quarter of 2020.

5 19. As a result of Citation No. 2021177, Respondent was ordered to comply with Orders
6 of Abatement and assessed a fine of \$5,551.00, to be satisfied within 30 days, or no later than
7 February 13, 2021. To date, Respondent has failed to submit payment for the fine or submit
8 documents to satisfy the Orders of Abatement.

9 **FIRST CAUSE FOR DISCIPLINE**

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

11 20. Respondent is subject to disciplinary action under 5 CCR 75050, subdivision (b), by
12 and through Code section 94936, in that they failed to comply with Citation No. 2021065 and
13 Citation No. 2021177, as more fully set for in paragraphs 15-19 above.

14 **PRAYER**

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

18 1. Revoking Approval to Operate No. 64417859, issued to Commercial Drivers
19 Learning Center, LLC, Commercial Drivers Learning Center;

20 2. Ordering Commercial Drivers Learning Center to pay the Bureau for Private
21 Postsecondary Education the reasonable costs of the investigation and enforcement of this case,
22 pursuant to Business and Professions Code section 125.3; and,

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

DATED: "2/25/2021"

"Original signature on file"

LEEZA RIFREDI
Interim Chief
Bureau for Private Postsecondary
Education
Department of Consumer Affairs
State of California
Complainant

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