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

13 In the Matter of the Accusation Against:

Case No. 1006251

14 **ELS LANGUAGE CENTERS**  
190 Palm Avenue, Pennafort Hall  
San Rafael, CA 94901  
15 **Mailing Address:**  
50 Acacia Avenue  
San Rafael, CA 94901

**ACCUSATION**

17 **Approval to Operate Institution Code**  
**No. 2101311**

18 Respondent.

19  
20 **PARTIES**

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

24 2. On or about August 23, 1996, the Bureau issued Approval to Operate Institution Code  
25 Number 2101311 to ELS Language Centers, owned by ELS Educational Services, Inc., d.b.a.  
26 ELS Language Centers/ Parent Company: Berlitz Languages Inc. (Respondent). The Approval to  
27 Operate will expire on April 30, 2024, unless renewed.  
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1 **JURISDICTION**

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

5 4. Section 94875 of the Code states, in pertinent part:

6 The bureau shall regulate private postsecondary educational institutions through  
7 the powers granted, and duties imposed, by this chapter. In exercising its powers, and  
8 performing its duties, the protection of the public shall be the bureau's highest  
9 priority. If protection of the public is inconsistent with other interests sought to be  
10 promoted, the protection of the public shall be paramount.

11 5. California Code of Regulations, title 5, section 75100 provides, in pertinent part:

12 (a) The Bureau may suspend, revoke or place on probation with terms and  
13 conditions an approval to operate.

14 . . . .  
15 (c) The proceedings under this section shall be conducted in accordance  
16 with Article 10 (commencing with Section 11445.10) of Chapter 4.5 or Chapter 5  
17 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
18 Government Code, as requested by the institution.

19 **STATUTORY PROVISIONS**

20 6. Section 94936 of the Code states:

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

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

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

. . . .

**REGULATORY PROVISIONS**

7. California Code of Regulations, title 5, section 75040 states:

(a) Pursuant to section 94936(c)(2) of the Code, a cited institution or  
person 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

1 hearing, the cited institution or person may, within the same 30 days, submit a  
2 written request to the Bureau for an informal conference.

3 . . . .

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

9 8. California Code of Regulations, title 5, section 75050 states:

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

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

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

### 23 COST RECOVERY

24 9. Business and Professions Code section 125.3 and Section 94937, subdivision (c),  
25 provide, in pertinent part, that the Bureau may request the administrative law judge to direct a  
26 licentiate found to have committed a violation or violations of the licensing act to pay a sum not  
27 to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the  
28 licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles,  
recovery of investigation and enforcement costs may be included in a stipulated settlement.

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1 **CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Orders of Abatement and Payment of Fine)**

3 10. Respondent is subject to disciplinary action pursuant to California Code of  
4 Regulations, title 5, section 75050(b), in that Respondent failed to comply with a citation and  
5 order of abatement issued by the Bureau.

6 11. On or about October 22, 2020, the Bureau issued Citation No. 2021124 to  
7 Respondent. The citation charged Respondent with (1) failing to submit documentation related to  
8 the Student Tuition Recovery Fund (STRF) and (2) violations discovered during an unannounced  
9 compliance inspection on February 26, 2020. The citation imposed a total fine of \$8,551.00, and  
10 ordered Respondent to submit evidence of abatement related to many of the violations.

11 12. Respondent did not appeal the citation. On January 14, 2021, February 18, 2021, and  
12 April 9, 2021, the Bureau mailed demand letters to Respondent regarding the citation. Although  
13 Respondent submitted evidence of abatement for the STRF violation cited, Respondent failed to  
14 pay the fine or otherwise comply with the orders of abatement.

15 **PRAYER**

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

19 1. Revoking Approval to Operate Institution Code Number 2101311, issued to ELS  
20 Language Centers, owned by ELS Educational Services, Inc., d.b.a. ELS Language Centers/  
21 Parent Company: Berlitz Languages Inc. (Respondent);

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

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

DATED: “9/14/2021”

“Original signature on file”

DEBORAH COCHRANE  
Chief  
Bureau for Private Postsecondary  
Education  
Department of Consumer Affairs  
State of California  
*Complainant*

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