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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
16 San Rafael, CA 94901

ACCUSATION

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

Respondent.

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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
promoted, the protection of the public shall be paramount.

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

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

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

15 **STATUTORY PROVISIONS**

16 6. Section 94936 of the Code states:

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

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

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

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25 **REGULATORY PROVISIONS**

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

27 (a) Pursuant to section 94936(c)(2) of the Code, a cited institution or
28 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.

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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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