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

12
13 In the Matter of the Accusation Against:

Case No. 1000864

14 **GRADUATES DO SUCCEED, INC.,**
SALVADOR FRANCO SR., 80% OWNER,
15 **SALVADOR FRANCO JR., 20% OWNER**
7916 Long Beach Boulevard
16 South Gate, CA 90280

ACCUSATION

17 Institution Code: 1922081

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Dr. Michael Marion, Jr. (“Complainant”) brings this Accusation solely in his official
23 capacity as the Chief of the Bureau for Private Postsecondary Education (“Bureau”), Department
24 of Consumer Affairs.

25 2. On or about May 4, 1993, the Bureau issued Approval to Operate Number 1922081 to
26 Graduates Do Succeed, Inc., Salvador Franco Sr. and Salvador Franco Jr. (“Respondent”). The
27 Approval to Operate an accredited institution was in full force and effect at all times relevant to
28 the charges brought herein, and expired on March 15, 2019.

JURISDICTION

1
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
4 references are to the Education Code unless otherwise indicated.

5 4. Business and Professions Code section 118, subdivision (b), provides that the
6 suspension, expiration, surrender, or cancellation of a license shall not deprive the Bureau of
7 jurisdiction to proceed with a disciplinary action during the period within which the license may
8 be renewed, restored, reissued or reinstated.

9 5. Section 94875 provides that the Bureau shall regulate private postsecondary
10 educational institutions.

11 6. Section 94877 states, in relevant part, that:

12 “(a) The bureau shall adopt and shall enforce regulations to implement this chapter pursuant
13 to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
14 Division 3 of Title 2 of the Government Code).

15 “(b) The bureau shall develop and implement an enforcement program, pursuant to Article
16 18 (commencing with Section 94932) to implement this chapter. . . .”

17 7. Section 94937 states that:

18 “(a) As a consequence of an investigation, which may incorporate any materials obtained or
19 produced in connection with a compliance inspection, and upon a finding that an institution has
20 committed a violation, the bureau may place an institution on probation or may suspend or revoke
21 an institution's approval to operate for:

22 (1) Obtaining an approval to operate by fraud.

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

1 (b) The bureau shall adopt regulations, within one year of the enactment of this chapter,
2 governing probation and suspension of an approval to operate.

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

5 (d) An institution shall not be required to pay the cost of investigation to more than one
6 agency.”

7 8. California Code of Regulations, title 5, section 75100 provides that the Bureau may
8 suspend, revoke or place on probation with terms and conditions an approval to operate.

9 **STATUTORY PROVISIONS**

10 9. Section 94893 states: “If an institution intends to make a substantive change to its
11 approval to operate, the institution shall receive prior authorization from the bureau. Except as
12 provided in subdivision (a) of Section 94896, if the institution makes the substantive change
13 without prior bureau authorization, the institution’s approval to operate may be suspended or
14 revoked.”

15 10. Section 94894 states, in relevant part, that: “The following changes to an approval to
16 operate are considered substantive changes and require prior authorization:

17

18 (g) A significant change in the method of instructional delivery.

19”

20 11. Section 94897 states, in relevant part, that: “An institution shall not do any of the
21 following:

22

23 (h) Pay any consideration to a person to induce that person to sign an enrollment agreement
24 for an educational program.

25

26 (j) In any manner make an untrue or misleading change in, or untrue or misleading
27 statement related to, a test score, grade or record of grades, attendance record, record indicating
28

1 student completion, placement, employment, salaries, or financial information, including any of
2 the following:

3

4 (3) Any other record or document required by this chapter or by the bureau.

5

6 (k) Willfully falsify, destroy, or conceal any document of record while that document of
7 record is required to be maintained by this chapter.”

8 12. Section 94902 states, in relevant part, that:

9 “....

10 (c) A student shall receive a copy of the signed enrollment agreement, in writing or
11 electronically, regardless of whether total charges are paid by the student.”

12 13. Section 94904 states, in relevant part, that:

13 “(a) Except as provided in subdivision (c), before an ability-to-benefit student may execute
14 an enrollment agreement, the institution shall have the student take an independently administered
15 examination from the list of examinations prescribed by the United States Department of
16 Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C.
17 Sec. 1070a et seq.). The student shall not enroll unless the student achieves a score, as specified
18 by the United States Department of Education, demonstrating that the student may benefit from
19 the education and training being offered.

20 (b) If the United States Department of Education does not have a list of relevant
21 examinations that pertain to the intended occupational training, the bureau may publish its own
22 list of acceptable examinations and required passing scores.”

23 14. Section 94934.5 states, in relevant part, that:

24 “(a) An institution with an approval to operate that knows that it is being investigated by an
25 oversight entity other than the bureau shall report that investigation, including the nature of that
26 investigation, to the bureau within 30 days of the institution’s first knowledge of the
27 investigation. An institution with an approval to operate that is the subject of a judgment by, a
28 regulatory action by, increased oversight or monitoring by, or a settlement with, any oversight

1 entity other than the bureau shall report it to the bureau within 30 days. Failure to comply with
2 this section may subject the institution to an administrative citation pursuant to Section 94936.”

3 **REGULATORY PROVISIONS**

4 15. California Code of Regulations, title 5, section 71600, subdivision (a), provides that:
5 “(a) An institution seeking to make a significant change in its method of instructional delivery
6 shall complete the ‘Significant Change in Method of Instructional Delivery’ form (INS rev. 2/10)
7 to obtain prior authorization. For the purposes of this section a ‘significant change in instructional
8 delivery’ is any change that alters the way students interact with faculty or access significant
9 equipment. The form shall be submitted to the Bureau along with the appropriate fee as provided
10 in Section 94930.5(c) of the Code. For an institution approved under section 94885 of the Code, it
11 shall be signed and dated by the signatory(ies) required by section 71380, and for an institution
12 approved under section 94890 of the Code, it shall be signed and dated by the signatory(ies)
13 required by section 71390, and each fact stated therein and each attachment thereto shall be
14 declared to be true under penalty of perjury, in the following form:

15 ‘I declare under penalty of perjury under the laws of the State of California that the
16 foregoing and all attachments are true and correct.

17 _____

18 (Date)

(Signature)”

19 16. California Code of Regulations, title 5, section 71770, subdivision (a)(1), states that:
20 “(a) The institution shall establish specific written standards for student admissions for each
21 educational program. These standards shall be related to the particular educational program. An
22 institution shall not admit any student who is obviously unqualified or who does not appear to
23 have a reasonable prospect of completing the program. In addition to any specific standards for an
24 educational program, the admissions standards must specify as applicable that:

25 (1) Each student admitted to an undergraduate degree program, or a diploma program, shall
26 possess a high school diploma or its equivalent, or otherwise successfully take and pass the
27 relevant examination as required by section 94904 of the Code.”
28

FACTUAL BACKGROUND

1
2 21. On or about July 22, 2015, the Bureau received information from an Investigator with
3 the Los Angeles County District Attorney’s Office (“DA Investigator”) that GDS Institute
4 (“GDS”), which is owned and operated by Respondent, may be falsifying student records and
5 committing workers’ compensation fraud. The DA Investigator provided the Bureau with
6 information that workers’ compensation claimant C. V.¹ had settled her claim in 2010. C.V. was
7 entitled to vocational training as part of her settlement. C. V. chose “computers” as her training
8 path.

9 22. The DA Investigator’s investigation revealed that Mirella Gutierrez (“Gutierrez,” as
10 known as Mirella Flores (“Flores”)), an employee of GDS, visited C. V.’s home in August 2010.
11 C. V. did not contact GDS or choose GDS for vocational training. Gutierrez told C. V. that she
12 would attend GDS for her vocational training and gave her a check for \$4,000.00. Gutierrez
13 instructed C. V. to purchase a computer and train herself. Gutierrez had C. V. sign several
14 documents, including a training voucher and a blank enrollment agreement. GDS invoiced C.V.’s
15 workers’ compensation insurance carrier for vocational training and received payment for
16 \$9,926.00. However, C. V. never attended classes or received training from GDS, and did not
17 receive a certificate of completion for any GDS vocational program.

18 23. On August 12, 2015, a Bureau Investigator (“Bureau Investigator”) visited the GDS
19 school, located in South Gate, California. The Bureau Investigator met with Gutierrez, who
20 identified herself as GDS’ Director of Admissions, and Frederico DeSoto (“DeSoto”), who
21 identified himself as GDS’ School Administrator. The Bureau Investigator also met with Pablo
22 Artaza (“Artaza”), who identified himself as GDS’ Chief Academic Officer and Executive
23 Director, and Salvador Franco Sr. (“Franco Sr.,” GDS’ Chief Executive Officer, President and
24 80% owner). During their meeting, DeSoto, Artaza and Franco Sr. confirmed that GDS never
25 offered distance education programs and that all student instruction was provided at GDS.

26 24. The Bureau Investigator requested and received fifteen (15) files for current and
27 former GDS students R. A., F. A., N. A., R. B., R. C., J. H., Ju. H., F. H., M. M., C. P., M. R.,

28

¹ Individuals’ initials are used to protect their identities.

1 S. S., D. S., R. T. and C. V. The Bureau Investigator also inspected and took photographs of
2 GDS' file storage areas. The boxes containing original student files and other documents were
3 not stored in a manner to secure from damage or loss. GDS also did not maintain a second set of
4 records at a separate location.

5 25. The Bureau Investigator reviewed the documents gathered from his visit and made
6 the following findings:

7 a. There were extra enrollment agreements for F. A., Ju. H., and R. T., which had the
8 same date as their original enrollment agreements, but with increased program lengths and costs.
9 The financial records for the extra enrollment agreements showed that the increased costs were
10 charged to the State Compensation Insurance Fund (SCIF) and received by GDS.

11 b. Only ten student files included financial or billing information. There was no
12 financial or billing information for R. A., N. A., M. R., D. S. or C. V.

13 c. Only three student files contained high school diplomas or transcripts. GDS
14 administered two different Ability-to-Benefit ("ATB") student exams, the Wonderlic and
15 Psychological Assessment Resources ("PAR") test. The PAR is not an approved Department of
16 Education or Bureau exam. The remaining thirteen files revealed deficiencies regarding these
17 students' eligibility requirements for admission as follows:

- 18 • R. A. self-certified that he graduated from high school in Mexico. GDS administered
19 the PAR to R. A. in 2011, which he purportedly passed.
- 20 • C. V. self-certified that she graduated from high school in La Mirada. GDS
21 administered the PAR to C. V. in 2010, which she purportedly passed.
- 22 • M. M. and S. S. claimed to have received General Education Development (GED)
23 certificates in their enrollment agreements, which were not included in their files.
24 GDS administered the Wonderlic and PAR tests to M. M. and S. S., which they
25 purportedly passed.
- 26 • R. B. and M. R. failed to indicate their highest level of education in their enrollment
27 agreements. GDS administered the Wonderlic test to R. B. and the PAR test to
28 M. R., which they purportedly passed.

- 1 • F. A. and Ju. H. stated in their enrollment agreements that they failed to complete
2 high school. GDS administered the PAR test to F. A. and Ju. H. in 2009, which
3 they purportedly passed.
- 4 • N. A., F. H., J. H. and R. T. stated in the enrollment agreements that they failed to
5 complete elementary school. GDS administered the PAR test to N. A., F. H., J. H.
6 and R. T. in 2009, 2010 and 2012, which they purportedly passed.
- 7 • All ten students who allegedly completed their programs at GDS were administered
8 the PAR test as an ATB test. These students received an average PAR score of
9 69%, but their grades averaged 85% at the completion of their programs.

10 d. Nine students' files did not include School Performance Fact Sheet ("SPFS") forms.
11 The SPFS forms included in six students' files did not contain all of the required information.
12 GDS reported having zero students to the Bureau for a majority of the reporting periods. GDS'
13 reporting conflicted with the student rosters provided by GDS. The SPFS Assessment Reporting
14 forms submitted by GDS for 2010 through the first quarter of 2015, revealed that GDS had zero
15 students enrolled, according to its School Payment History.

16 e. The SPFS for GDS' Administrative Office Assistant (AOA) program listed a
17 completion rate of 99% in 2013 and 100% in 2014. However, the list of withdrawn students for
18 the AOA program produced by GDS showed that four students withdrew from the program
19 during that time period, which was not reflected in the SPFS reporting.

20 26. The DA Investigator interviewed R. T. on October 23, 2015. R.T. related that
21 "Mirella" called him in July 2010 and identified herself as a secretary at GDS. Salvador Franco
22 Jr. ("Franco Jr.," the Secretary, Chief Financial Officer and 20% owner of GDS), visited R. T.'s
23 home shortly thereafter. R. T. told Franco Jr. that he was unable to attend GDS because of his
24 age, physical issues and lack of driver's license. Franco Jr. told R. T. that he would not have to
25 attend classes and "would take care of everything at the school." Franco Jr. told R. T. that he
26 would receive \$1,500.00 and instructed R. T. to say that he did attend classes at GDS if asked by
27 anyone. Approximately one week after the meeting, R. T. received a check in the mail for
28 \$1,500.00. During the interview, R. T. authenticated enrollment documents for GDS' Computer

1 Repair program, which he never selected. R. T. also confirmed that he never attended classes at
2 GDS, received a diploma or a certificate of completion from GDS.

3 27. R. T.'s file included an attendance card, which indicated that he attended GDS from
4 July 26, 2010 to November 12, 2010, a grade sheet indicating a final grade average of 91%, and a
5 diploma for completion of the Computer Repair program on November 12, 2010.

6 28. C. V.'s file included an enrollment agreement, which listed her program as
7 Administrative Office Assistant. C. V.'s diploma, however, stated that she completed the
8 Administrative Medical Secretary program on December 3, 2010. C. V. did not choose the
9 "Medical Secretary" program. C. V.'s attendance card indicated that she attended Administrative
10 Medical Secretary classes from August 16, 2010 to December 3, 2010, with a 94% attendance
11 rate. C. V.'s grade sheet showed a final grade average of 85.29%.

12 29. The Bureau Investigator interviewed GDS student, D. S., on December 30, 2015. D.
13 S. related that a Hispanic male from GDS came to his home to set up a new laptop that GDS gave
14 to him to keep at the end of his training. D. S. did not remember signing enrollment papers and
15 did not take an aptitude test prior to enrollment. D. S. was enrolled in the Administrative Office
16 Assistant program in 2010, but received all of his training at home. D. S. never attended GDS.
17 D. S.'s file included copies of his enrollment agreement and PAR test results. D. S.'s attendance
18 card showed attendance at GDS from December 6, 2010, through April 8, 2011.

19 30. Based on the information obtained from GDS and the investigation, the Bureau
20 Investigator concluded that GDS falsified student records and fraudulently collected workers'
21 compensation rehabilitation funds.

22 31. On January 30, 2019, the court granted the Bureau's request, under Penal Code
23 section 23, for an order prohibiting Franco Jr. from engaging in any activity or operation of GDS
24 until the resolution of his criminal proceedings in *The People of the State of California v.*
25 *Salvador Franco Jr.* (Super. Ct. Los Angeles County, Case No. BA472693).

26 32. On or about May 22, 2019, after pleading nolo contendere, Franco Jr. was convicted
27 of one (1) violation of Insurance Code section 1871.4, subdivision (a)(2) (false and fraudulent
28

1 statement in support of claim to obtain compensation) in *The People of the State of California v.*
2 *Salvador Franco Jr.* (Super. Ct. Los Angeles County, Case No. BA472693).²

3 33. On or about May 22, 2019, after pleading nolo contendere, Flores was convicted of
4 one (1) violation of Insurance Code section 1871.4, subdivision (a)(2) (false and fraudulent
5 statement in support of claim to obtain compensation) in the criminal proceeding entitled *The*
6 *People of the State of California v. Mirella Flores* (Super. Ct. Los Angeles County, Case No.
7 BA472693).

8 34. On or about May 24, 2019, after pleading nolo contendere, Franco Jr. was convicted
9 of one (1) violation of Penal Code section 182, subdivision (a)(1) (conspiracy to commit a crime),
10 with an enhancement under Penal Code section 186.11, subdivisions (a)(1) and (a)(3) (aggravated
11 white collar crime over \$100,000), and eighteen (18) violations of Insurance Code section 1871.4,
12 subdivision (a)(1) (false and fraudulent claims to obtain compensation), with enhancements under
13 Penal Code section 186.11, subdivisions (a)(1) and (a)(3), in the criminal proceeding entitled *The*
14 *People of the State of California v. Salvador Franco Jr.* (Super. Ct. Orange County, Case No.
15 19CF0354).

16 35. On or about May 24, 2019, after pleading nolo contendere, Flores was convicted of
17 one (1) violation of Penal Code section 182, subdivision (a)(1), with an enhancement under Penal
18 Code section 186.11, subdivisions (a)(1) and (a)(3), and eighteen (18) violations of Insurance
19 Code section 1871.4, subdivision (a)(1), with enhancements under Penal Code section 186.11,
20 subdivisions (a)(1) and (a)(3), in the criminal proceeding entitled *The People of the State of*
21 *California v. Mirella Flores* (Super. Ct. Orange County, Case No. 19CF0354).

22 **ADDITIONAL FACTUAL ALLEGATIONS**

23 36. Between October 2015 and January 2018, the Orange County District Attorney's
24 Office, the California Department of Insurance, the Los Angeles District Attorney's Office and

25 ² Insurance Code section 1871.4 states, in relevant part that: "(a) It is unlawful to do any
26 of the following: (1) Make or cause to be made any knowingly false or fraudulent material
27 statement or material representation for the purpose of obtaining or denying any compensation, as
28 defined in Section 3207 of the Labor Code. (2) Present or cause to be presented any knowingly
false or fraudulent written or oral material statement in support of, or in opposition to, any claim
for compensation for the purpose of obtaining or denying any compensation, as defined in Section
3207 of the Labor Code."

1 the California Franchise Tax Board investigated GDS and Technical College's (a vocational
2 training school affiliated with GDS) workers' compensation claimants. The investigation
3 revealed that the claimants were contacted by Franco Jr. and Flores after being issued a
4 supplemental job displacement voucher. Franco Jr. and/or Flores explained the vocational
5 training programs offered by GDS and encouraged enrollment. If the claimant was uninterested
6 or unwilling to enroll, they offered in home training by Technical College or GDS instructors, or
7 a cash payout of a portion of the voucher.

8 37. Upon receipt of the signed supplemental job displacement voucher, GDS or Technical
9 College sent an invoice to the insurance carrier for payment. Invoicing documents included an
10 enrollment agreement, the signed voucher, class syllabus and school accreditation. Once
11 received, the insurer was obligated to immediately pay the voucher in full. All class syllabi
12 submitted by Technical College or GDS identified the training to be conducted at the Technical
13 College South Gate Campus, from Monday through Friday, 9:00 a.m. to 5:00 p.m.

14 38. Of the thirty-three (33) claimants interviewed during the investigation: 11 received
15 partial training (12-60 hours); 1 reported completing the program; 12 received cash payments and
16 no training; and 10 received no training and no cash payout. A forensic accounting of GDS' bank
17 documents for January 1, 2013, through December 16, 2016, revealed that GDS and Technical
18 School collected \$6,719,568.00 from supplemental job displacement vouchers. During the same
19 time period, \$843,443.01 was discovered as "kickback" payments made to various claimants.
20 Franco Jr. is an authorized signer on one of two main accounts into which the voucher payments
21 were deposited.

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23 ////

24 ////

25 ////

26 **FIRST CAUSE FOR DISCIPLINE**

27 **(Failure to Obtain Authorization Required for Substantive Change)**

28

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Prohibited Business Practices)**

3 42. Respondent is subject to disciplinary action under section 94937 for violating section
4 94897, subdivision (k), in that Respondent willfully falsified records, as follows:

- 5 • Respondent falsified attendance records, grade sheets, and diplomas for D. S., R. T.
6 and C. V., who never attended GDS.
- 7 • Respondent falsified enrollment agreements with inflated pricing for F. A., Ju. H. and
8 R. T., and submitted the inflated documents to SCIF for payment. Complainant
9 incorporates paragraphs 21-38, as though fully stated herein.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Enrollment Agreement)**

12 43. Respondent is subject to disciplinary action under section 94937 for violating section
13 94902, subdivision (c), in that Respondent failed to provide D. S. with a copy of his signed
14 enrollment agreement. Complainant incorporates paragraphs 21-38, as though fully stated herein.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Ability-to-Benefit Test)**

17 44. Respondent is subject to disciplinary action under section 94937 for violating section
18 94904, in that Respondent administered PAR Aptitude Tests as an Ability-to-Benefit test to the
19 following ten students: R. A., F. A., N. A., R. B., J. H. Ju. H., F. H., D. S., R. T. and C. V. The
20 PAR test is not approved by the Department of Education or the Bureau as an Ability-to-Benefit
21 test. Complainant incorporates paragraphs 21-38, as though fully stated herein.

22 **SEVENTH CAUSE FOR DISCIPLINE**

23 **(Ability-to-Benefit Test)**

24 45. Respondent is subject to disciplinary action under section 94937 for violating section
25 94934.5, in that Respondent failed to report the investigation by another oversight entity to the
26 Bureau within 30 days of having knowledge of the investigation. Complainant incorporates
27 paragraphs 21-38, as though fully stated herein.

28 **EIGHTH CAUSE FOR DISCIPLINE**

1 **(Admissions Standards)**

2 46. Respondent is subject to disciplinary action under section 94937 for violating
3 California Code of Regulations, title 5, sections 71770, subdivision (a)(1), and 71920, subdivision
4 (b)(1)(A), in that Respondent failed to comply with admissions standards, as follows:

- 5 • F. A., N. A., F. H., J. H., Ju. H. and R. T. stated in their enrollment agreements that
6 they did not complete a high school diploma program or equivalent. Respondent
7 administered the PAR Aptitude Test as an Ability-to-Benefit test to these students,
8 which is not approved by the Department of Education or the Bureau as an Ability-
9 to-Benefit test.
- 10 • The enrollment agreements for R. A., M. M., D. S. and C. V. stated that they
11 completed a high school diploma program or equivalent, but their files did not
12 include a copy of a high school diploma. R. B. and M. R. did not disclose their
13 highest level of education. Respondent administered the PAR Aptitude Test as an
14 Ability-to-Benefit test to these students, which is not approved by the Department of
15 Education or the Bureau as an Ability-to-Benefit test. Complainant incorporates
16 paragraphs 21-38, as though fully stated herein.

17 **NINTH CAUSE FOR DISCIPLINE**

18 **(Admissions Standards)**

19 47. Respondent is subject to disciplinary action under section 94937 for violating
20 California Code of Regulations, title 5, section 71920, subdivision (b)(9), in that Respondent
21 failed to maintain copies of financial records for R. A., N. A., M. R., D. S. and C. V.
22 Complainant incorporates paragraphs 21-38, as though fully stated herein.

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24 ///

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26 **TENTH CAUSE FOR DISCIPLINE**

27 **(Student Records)**

28

