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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 Accusation Against:

Case No. 1004073

13 **HOLBERTON INC.**  
14 **972 Mission Street – 1st Floor**  
15 **San Francisco, CA 94103**

**ACCUSATION**

16 **Approval to Operate a Non-accredited**  
17 **Institution, Code No. 47845455,**

Respondent.

18  
19 **PARTIES**

20 1. Dr. Michael Marion, Jr. (Complainant) brings this accusation solely in his official  
21 capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of  
22 Consumer Affairs.

23 2. On or about July 11, 2018, the Bureau issued an Approval to Operate a Non-  
24 accredited Institution, Code No. 47845455, to Holberton Inc. (Respondent). This approval to  
25 operate was in full force and effect at all times relevant to the charges brought in this accusation  
26 and will expire on July 11, 2023, unless renewed.

27 **JURISDICTION**

28 3. This accusation is brought before the Director of the Department of Consumer

1 Affairs (Director) for the Bureau under the authority of the following laws. All section references  
2 are to the Education Code unless otherwise indicated.

3 4. Business and Professions Code section 118, subdivision (b), states:

4 “The suspension, expiration, or forfeiture by operation of law of a license issued by a  
5 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
6 order of a court of law, or its surrender without the written consent of the board, shall not, during  
7 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
8 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
9 provided by law or to enter an order suspending or revoking the license or otherwise taking  
10 disciplinary action against the licensee on any such ground.”

11 5. Section 94875 states:

12 “The Bureau for Private Postsecondary Education, as established by Section 6 of Chapter  
13 635 of the Statutes of 2007, is continued in existence and shall commence operations. This  
14 chapter establishes the functions and responsibilities of the bureau, for the purposes of Section 6  
15 of Chapter 635 of the Statutes of 2007. The bureau shall regulate private postsecondary  
16 educational institutions through the powers granted, and duties imposed, by this chapter. In  
17 exercising its powers, and performing its duties, the protection of the public shall be the bureau’s  
18 highest priority. If protection of the public is inconsistent with other interests sought to be  
19 promoted, the protection of the public shall be paramount.”

20 6. Section 94877 states in part:

21 “(d) The bureau shall establish a program to proactively identify unlicensed institutions,  
22 identify material or repeated violations of this chapter and regulations implementing this chapter,  
23 and take all appropriate legal action.”

#### 24 **STATUTORY PROVISIONS**

25 7. Section 94886 states:

26 “Except as exempted in Article 4 (commencing with Section 94874) or in compliance  
27 with the transition provisions in Article 2 (commencing with Section 94802), a person shall not  
28 open, conduct, or do business as a private postsecondary educational institution in this state

1 without obtaining an approval to operate under this chapter.”

2 8. Section 94897 states in part:

3 “An institution shall not do any of the following:

4 . . .

5 “(j) In any manner make an untrue or misleading change in, or untrue or misleading  
6 statement related to, a test score, grade or record of grades, attendance record, record indicating  
7 student completion, placement, employment, salaries, or financial information, including any of  
8 the following:

9 . . .

10 “(3) Any other record or document required by this chapter or by the bureau.”

11 9. Section 94937 states in part:

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

16 “(1) Obtaining an approval to operate by fraud.”

17 **COST RECOVERY**

18 10. Business and Professions Code section 125.3 states that the Bureau may request  
19 the administrative law judge to direct a licentiate found to have committed a violation or  
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
21 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
22 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
23 may be included in a stipulated settlement.

24 **FIRST CAUSE FOR DISCIPLINE**

25 (Approval to Operate Required)

26 11. Respondent has subjected its approval to operate to discipline under section 94886  
27 for opening, conducting, or doing business as a private postsecondary educational institution  
28 without obtaining an approval to operate. Respondent enrolled students into its program before

1 the Bureau issued its approval to operate on July 11, 2018.

2 **SECOND CAUSE FOR DISCIPLINE**

3 (Prohibited Business Practices)

4 12. Respondent has subjected its approval to operate to discipline under section 94897,  
5 subdivision (j), for making untrue or misleading statements. The Bureau approved Respondent to  
6 offer a two-year, 4331 hour, Full-Stack software engineer program. Respondent encouraged  
7 students to leave the program after nine months of education and pursue employment. After  
8 finding and maintaining employment for six months, Respondent requested that students have  
9 their employers write letters to verify that the students had completed six months of employment  
10 and were in good standing. Based on those letters, Respondent gave students credit for 15  
11 months of education which the students had not completed, and issued graduation certificates to  
12 those students.

13 **THIRD CAUSE FOR DISCIPLINE**

14 (Obtaining Approval to Operate by Fraud)

15 13. Respondent has subjected its approval to operate to discipline under section 94937,  
16 subdivision (a)(1), for obtaining an approval to operate by fraud. As a condition of the Bureau  
17 granting Respondent an approval to operate, Respondent agreed to not offer an income share  
18 agreement (ISA) to students as a method of paying for their education. An ISA allows students to  
19 defer paying their tuition at the beginning of their education program in exchange for paying the  
20 institution a percentage of their income for a number of years after graduating. Respondent had  
21 removed all mention of ISAs from its school catalog and enrollment agreement before it received  
22 its approval to operate. However, it offered ISAs to students after it received an approval to  
23 operate on July 11, 2018.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
26 accusation, and that following the hearing, the Director of the Department of Consumer Affairs  
27 issues a decision:

28 1. Revoking or suspending Approval to Operate a Non-accredited Institution, Code

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No. 47845455, issued to Respondent;

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

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

DATED: "2/4/2020"

"Original signature on file"  
DR. MICHAEL MARION, JR.  
Bureau Chief  
Bureau for Private Postsecondary Education  
Department of Consumer Affairs  
State of California  
*Complainant*

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