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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 Statement of Issues
Against:
13 **CALEDONIAN**
14 Application for Renewal of Approval to
15 Operate and Offer Educational Programs for
16 Non-Accredited Institutions
17 Institution Code No. 1939291
18 Respondent.

Case No. BPPE23-0481
STATEMENT OF ISSUES

19
20 **PARTIES**

21 1. Deborah Cochrane (Complainant) brings this Statement of Issues 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 June 3, 2020, the Bureau received an Application for Renewal of
25 Approval to Operate and Offer Educational Programs for Non-Accredited Institutions from
26 Caledonian (Respondent), owned by Caledonian, Inc.; Guillermo Frias as Owner/Director. On or
27 about May 21, 2020, Guillermo Frias certified under penalty of perjury to the truthfulness of all
28

1 statements, answers, and representations in the application. The Bureau denied the application on
2 June 6, 2023.

3 JURISDICTION

4 3. This Statement of Issues is brought before the Director of the Department of
5 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
6 authority of the following laws. All section references are to the California Education Code,
7 unless stated otherwise.

8 4. Section 94817 states:

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

12 5. Section 94817.5 states:

13 “‘Approved to operate’ or ‘approved’ means that an institution has received authorization
14 pursuant to this chapter to offer to the public and to provide postsecondary educational
15 programs.”

16 6. Section 94885, subdivision (a) states:

17 “(a) The bureau shall adopt by regulation minimum operating standards for an institution
18 that shall reasonably ensure that all of the following occur:

19 “(1) The content of each educational program can achieve its stated objective.

20 “(2) The institution maintains specific written standards for student admissions for each
21 educational program and those standards are related to the particular educational program.

22 “(3) The facilities, instructional equipment, and materials are sufficient to enable students to
23 achieve the educational program’s goals.

24 . . .

25 “(5) The directors, administrators, and faculty are properly qualified.

26 “(6) The institution is financially sound and capable of fulfilling its commitments to
27 students.

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1 “(7) That, upon satisfactory completion of an educational program, the institution gives
2 students a document signifying the degree or diploma awarded.

3 . . .

4 “(9) The institution is maintained and operated in compliance with this chapter and all other
5 applicable ordinances and laws.”

6 . . .

7 7. Section 94886 states:

8 “Except as exempted in Article 4 (commencing with Section 94874) or in compliance with
9 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,
10 conduct, or do business as a private postsecondary educational institution in this state without
11 obtaining an approval to operate under this chapter.”

12 8. Section 94887 states:

13 “An approval to operate shall be granted only after an applicant has presented sufficient
14 evidence to the bureau, and the bureau has independently verified the information provided by the
15 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
16 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
17 for an approval to operate if the application does not satisfy those standards. The bureau may
18 deny an application for an approval to operate institutions that would be owned by, have persons
19 in control of, or employ institution managers that had knowledge of, should have known, or
20 knowingly participated in any conduct that was the cause for revocation or unmitigated discipline
21 at another institution.”

22 9. Section 94891 states, in part:

23 . . .

24 “(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its
25 continued capacity to meet the minimum operating standards.”

26 . . .

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STATUTORY PROVISIONS

10. Section 94898 states, in part:

...

“(b) After a student has enrolled in an educational program, the institution shall not do either of the following:

...

“(2) Change the day or time during the period of attendance in which any class is offered to a day when the student is not scheduled to attend the institution or to a time that is outside of the range of time that the student is scheduled to attend the institution on the day for which the change is proposed unless at least 90 percent of the students who are enrolled consent to the change and the institution offers full refunds to the students who do not consent to the change. For the purpose of this paragraph, “range of time” means the period beginning with the time at which the student’s first scheduled class session for the day is set to start and ending with the time the student’s last scheduled class session for that day is set to finish.”

“(c) If an institution enrolls a student in an educational program that is conducted at a specific site at the time of enrollment, the institution shall not convert the educational program to another method of delivery, such as by means of distance education. This subdivision does not apply to an educational program that also includes a distance education component, if the student is notified during the enrollment process, in writing, that the program contains a distance education component.”

...

11. Section 94899 states, in part:

“(a) If an institution offers an educational program in a profession, occupation, trade, or career field that requires licensure in this state, the institution shall have an educational program approval from the appropriate state licensing agency to conduct that educational program in order that a student who completes the educational program, except as provided in Section 94905, is eligible to sit for any required licensure examination.”

...

REGULATORY PROVISIONS

12. California Code of Regulations, title 5, section 70000 states, in part:

“(j) “Duly qualified faculty” or “faculty member” means a person or people who satisfy the requirements of section 71720.”

13. California Code of Regulations, title 5, section 71550 states, in part:

“(a) An institution seeking to add a separate branch pursuant to section 94894(h) shall complete the “Application for Addition of a Separate Branch” form (SEP rev. 2/10) to obtain prior authorization. The form shall be submitted to the Bureau along with the appropriate fee as provided in Section 94930.5(a)(2) of the Code. It shall be signed and dated by the signatory(ies) required by section 71380 for an institution approved under section 94885 of the Code and section 71390 for an institution approved under section 94890 of the Code, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

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

	(Date)		(Signature)”

...

14. California Code of Regulations, title 5, section 71660 states:

“An institution shall notify the Bureau of a non-substantive change including: change of location of less than 10 miles; addition of a program related to the approved programs offered by the institution; addition of a new branch five miles or less from the main or branch campus; addition of a satellite; and change of mailing address. All such notifications shall be made within 30 days of the change and sent to the Bureau, in writing, to the address listed in section 70020.”

15. California Code of Regulations, title 5, section 71700 states:

“The Bureau may request that an institution document compliance with the standards set forth in the Act and this Division to obtain and maintain an approval to operate.”

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1 16. California Code of Regulations, title 5, section 71710, subdivision (a) states:

2 “(a) In order to meet its mission and objectives, the educational program defined in Section
3 94837 of the Code shall be comprised of a curriculum that includes:

4 “(1) Those subject areas that are necessary for a student to achieve the educational
5 objectives of the educational program in which the student is enrolled;

6 “(2) Subject areas and courses or modules that are presented in a logically organized
7 manner or sequence to students;”

8 . . .

9 17. California Code of Regulations, title 5, section 71715, states:

10 “(a) Instruction shall be the central focus of the resources and services of the institution.

11 “(b) The institution shall document that the instruction offered leads to the achievement of
12 the learning objectives of each course.

13 “(c) Direct instruction requires the physical presence of one or more students and one or
14 more faculty members at the same location. Direct instruction includes instruction presented in a
15 classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning
16 settings consistent with the mission, purposes, and objectives of the institution.

17 “(d) Distance education as defined in section 94834 of the Code, does not require the
18 physical presence of students and faculty at the same location but provides for interaction
19 between students and faculty by such means as telecommunication, correspondence, electronic
20 and computer augmented educational services, postal service, and facsimile transmission. In
21 addition to the other requirements of this chapter and the Act, an institution offering distance
22 education shall:

23 “(1) ensure that the educational program offered through distance education is appropriate
24 for delivery through distance education methods;

25 . . .

26 “(3) ensure that the materials and programs are current, well organized, designed by faculty
27 competent in distance education techniques and delivered using readily available, reliable
28 technology;

1 “(4) provide for meaningful interaction with faculty who are qualified to teach using
2 distance education methods;

3 . . .

4 “(6) timely complete student evaluations of learning outcomes by duly qualified faculty,
5 which are appropriate for use with the distance education methods used, and evaluated by duly
6 qualified faculty.”

7 18. California Code of Regulations, title 5, section 71720 states, in part:

8 . . .

9 “(b) Instructors in an Educational Program Not Leading to a Degree.

10 “(1) An institution shall employ instructors who possess the academic, experiential and
11 professional qualifications to teach, including a minimum of three years of experience, education
12 and training in current practices of the subject area they are teaching. If an instructor does not
13 possess the required three years of experience, education and training in the subject area they are
14 teaching, the institution shall document the qualifications the instructor possesses that are
15 equivalent to the minimum qualifications.

16 “(2) Each instructor shall maintain their knowledge by completing continuing education
17 courses in his or her subject area, classroom management or other courses related to teaching.”

18 . . .

19 19. California Code of Regulations, title 5, section 71735, states, in part:

20 “(a) An institution shall have sufficient facilities and necessary equipment to support the
21 achievement of the educational objectives of all of the courses and educational programs in which
22 students are enrolled. If an institution represents that the educational service will fit or prepare a
23 student for employment in a particular occupation or as described in particular job titles, either of
24 the following conditions shall be met:

25 (1) The equipment used for instruction or provided to the student shall be comparable in
26 model type or features to equipment generally used in those occupations or job titles at the time
27 the instruction is offered.

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1 (2) The institution shall establish that the equipment used for instruction or provided to a
2 student is not obsolete and is sufficient for instructional purposes to reasonably assure that a
3 student acquires the necessary level of education, training, skill, and experience to obtain
4 employment in the field of training and to perform the tasks associated with the occupation or job
5 title to which the educational program was represented to lead.

6 . . .

7 **FACTUAL BACKGROUND**

8 20. Respondent's Application for Renewal of Approval to Operate and Offer Educational
9 Programs for Non-Accredited Institutions was received on June 3, 2020. Between June 2020
10 through April 2023, the Bureau and Respondent exchanged correspondence, documents, and
11 other information related to Respondent's renewal application.

12 21. The Bureau issued a deficiency letter on July 6, 2020. Between August 4, 2020 and
13 February 17, 2021, the Bureau received documentation in response to the Bureau's deficiency
14 letter. On October 24, 2022, the Bureau's Quality of Education Unit (QEU) sent a deficiency
15 letter to Respondent. On January 23, 2023, the Bureau received Respondent's response to QEU's
16 deficiency letter. On February 22, 2023, the Bureau's QEU sent a second deficiency letter to
17 Respondent. On March 22, 2023 and March 29, 2023, the Bureau received a response to QEU's
18 second deficiency letter from Respondent.

19 22. On or about June 6, 2023, the Bureau issued Respondent a Notice of Denial of
20 Application for Renewal of Approval to Operate. On or about June 12, 2023, the Bureau received
21 from Respondent a written notice of appeal requesting a hearing regarding the Bureau's denial of
22 Respondent's renewal application. Between April 23, 2023 and April 27, 2023, the Bureau
23 requested and received documentation relating to Respondent's Learning Management System,
24 program schedules and location of classes.

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Meet Minimum Operating Standards – Instruction and Degrees Offered)**

3 23. Respondent's renewal application is subject to denial under Code sections 94887,
4 94891, subdivision (b) and Regulation section 71700, in conjunction with Code section
5 71715, subdivisions (a) through (d), as follows:

6 a. Respondent failed to demonstrate how courses are taught, in violation of Regulation
7 section 71715, subdivision (a). Specifically, Respondent's course descriptions and syllabi for
8 eight of the approved direct instruction programs indicate instruction is primarily taught through
9 live Instructor-Led Training; however, the institution has only one classroom. In addition, the
10 Class Schedule document provided by the institute states, "All Courses are offered Mornings and
11 Afternoons", without identifying which specific courses are taught and when the courses are
12 taught. The Bureau is unable to determine if "live" refers to direct/in-person or distance
13 education/online instruction.

14 b. Respondent failed to demonstrate its ability to achieve course objectives, in violation
15 of Regulation section 71715, subdivision (b), in that the institution did not demonstrate how the
16 instruction offered leads to the achievement of the learning objectives of each course. The
17 Bureau found that the courses and curriculum content faculty are assigned to instruct differ from
18 the courses and curriculum content actually being taught.

19 c. Respondent failed to demonstrate its ability to achieve direct instruction to students,
20 in violation of Regulation section 71715, subdivision (c), in that the institution did not
21 demonstrate how direct instruction includes instruction presented in a classroom, seminar,
22 workshop, lecture, colloquium, laboratory, tutorial, or other physical learning settings consistent
23 with the mission, purposes, and objectives of the institution.

24 d. Respondent failed to demonstrate that the proposed distance education program and
25 delivery method meet minimum standards for reliable technology, meaningful faculty interaction,
26 and appropriate student evaluations conducted by duly qualified faculty, in violation of
27 Regulation section 71715, subdivisions (d)(1)(3)(4) and (6). Specifically, the course descriptions
28 and syllabi for the four approved distance education programs state, "the course is primarily

1 taught through synchronous online instructor-led Training.” Because access was not granted to
2 the Distance Learning platform, the Bureau was unable to determine how the institution provides
3 interaction between students and faculty.

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

5 **(Failure to Meet Minimum Operating Standards – Description of Educational Programs)**

6 24. Respondent’s renewal application is subject to denial under Code sections 94887,
7 94891, subdivision (b) and Regulation section 71700, in conjunction with section 94899,
8 subdivision (a) and Regulation section 71710, subdivisions (a)(1) and (a)(2), in that the institution
9 provided educational programs that are not consistent with the planned curriculum. The
10 circumstances are as follows:

11 a. The Bureau found that faculty adjust courses to fit the students’ needs and that faculty
12 craft their own lectures. The institution did not provide evidence that students in the same
13 program are provided the same curriculum and how the institution demonstrates how the
14 educational programs are comprised of curricula that include subject areas that are necessary for a
15 student to achieve the educational objectives of the educational program.

16 b. The Bureau found faculty provided educational program components different from
17 the planned curriculum. The institution did not demonstrate subject areas and courses, or
18 modules are presented in a logically organized manner or sequence to students.

19 c. The Bureau found educational program component (Tax Preparation) in the
20 Computerized Bookkeeping program require approval from another State agency, the California
21 Tax Education Council.

22 **THIRD CAUSE FOR DENIAL OF APPLICATION**

23 **(Failure to Meet Minimum Operating Standards - Faculty)**

24 25. Respondent’s renewal application is subject to denial under Code sections 94887,
25 94891, subdivision (b) and Regulation section 71700, in conjunction with Regulation section
26 71720, subdivisions (b)(1) and (b)(2), in that Respondent failed to provide information that its
27 instructors possess the academic, experiential and professional qualifications to teach, including a
28 minimum of three years of experience, education and training in current practices of the subject(s)

1 that they are teaching. Respondent's faculty do not meet the standards prescribed by Regulation
2 section 70000, subdivision (j). Moreover, Respondent failed to provide documentation on how
3 each instructor maintains their knowledge by completing continuing education courses in his or
4 her subject area, classroom management or other courses related to teaching.

5 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

6 **(Failure to Meet Minimum Operating Standards – Facilities and Equipment)**

7 26. Respondent's renewal application is subject to denial under Code sections 94887,
8 94891, subdivision (b) and Regulation section 71700, in conjunction with Regulation sections
9 71550, subdivision (a), 71660, and 71735, subdivision (a), in that Respondent's facilities,
10 instructional equipment, and materials are insufficient to enable students to achieve the
11 educational program's goals, as follows:

12 a. The Bureau found faculty conducting educational program instruction at locations
13 without prior Bureau approval, including a Branch or Satellite office.

14 b. Respondent is approved to offer eight programs via direct instruction; however, the
15 facilities include only one classroom. Respondent's facilities, instructional equipment, and
16 materials are not sufficient to enable students to achieve the educational program's goals.

17 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

18 **(Failure to Meet Minimum Operating Standards – Converting Method of Delivery)**

19 27. Respondent's renewal application is subject to denial under Code sections 94887,
20 94891, subdivision (b) and Regulation section 71700, in conjunction with California Education
21 Code section 94898, subdivisions (b)(2) and (c) as follows:

22 a. Respondent provided an Instructor List that identifies the courses instructors are
23 assigned to teach and their contact information. The Bureau's investigation revealed that
24 Respondent's faculty are instructing courses outside of the courses assigned on the Instructor List
25 and that scheduling of class times and locations vary.

26 b. Respondent's educational programs are approved for either direct/in-person or online
27 instruction. Respondent's educational programs are not approved for a combination of these
28 methods of instruction, for instance, hybrid instruction. It was discovered that Respondent

1 allowed students who enrolled in a direct/in-person program switch to an online format of
2 instruction, without Bureau approval.

3 **PRAYER**

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

7 1. Denying the application of Caledonian, owned by Caledonian, Inc.; Guillermo Frias
8 as Owner/Director for a Renewal of Approval to Operate and Offer Educational Programs for
9 Non-Accredited Institutions;

10 2. Taking such other and further action as deemed necessary and proper.

13 DATED: 6/21/2024

"Original Signature on File"

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

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