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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. BPPE22-352

13 **CALEDONIAN**
14 12631 Imperial Hwy Suite F-104 and F-106
Santa Fe Springs, CA 90670

ACCUSATION

15 Approval to Operate Institution Code Number
16 1939291

17 Respondent.
18

19 **PARTIES**

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

24 2. On or about July 12, 2000, the Bureau for Private Postsecondary Education issued
25 Approval to Operate Number 1939291 to Caledonian, owned by Caledonian, Inc.; Guillermo
26 Frias, aka William Frias, as Owner and Director (Respondent). The Approval to Operate expired
27 on June 11, 2020; however, Respondent's renewal application has been denied and is pending
28 Administrative Hearing.

JURISDICTION

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

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

5. Section 94933 of the Code states:

"The bureau shall provide an institution with the opportunity to remedy noncompliance, impose fines, place the institution on probation, or suspend or revoke the institution's approval to operate, in accordance with this article, as it deems appropriate based on the severity of an institution's violations of this chapter, and the harm caused to students."

6. Section 94937 of the Code states, in pertinent part:

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

....

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

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1 7. California Code of Regulations, title 5, section 75100:

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

4 "(b) 'Material violation' as used in section 94937 of the Code includes committing any act
5 that would be grounds for denial under section 480 of the Business and Professions Code.

6 "(c) The proceedings under this section shall be conducted in accordance with Article 10
7 (commencing with Section 11445.10) of Chapter 4.5 or Chapter 5 (commencing with Section
8 11500) of Part 1 of Division 3 of Title 2 of the Government Code, as requested by the institution."

9 **STATUTORY PROVISIONS**

10 8. Section 94893 of the Code states:

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

15 9. Section 94894 of the Code states, in pertinent part:

16 "The following changes to an approval to operate are considered substantive changes and
17 require prior authorization:

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19 "(e) A change of location.

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

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23 10. Section 94897 of the Code states, in pertinent part:

24 "An institution shall not do any of the following:

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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

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

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

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

7

8 "(q) In any manner commit fraud against, or make a material untrue or misleading
9 statement to, a student or prospective student under the institution's authority or the pretense or
10 appearance of the institution's authority.

11

12 "(u) Fail to maintain policies related to compliance with this chapter or adhere to the
13 institution's stated policies."

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15 11. Section 94899.5 of the Code states, in pertinent part:

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17 "(e) At the student's option, an institution may accept payment in full for tuition and fees,
18 including any funds received through institutional loans, after the student has been accepted and
19 enrolled and the date of the first class session is disclosed on the enrollment agreement."

20 12. Section 94902 of the Code states, in pertinent part:

21 "(a) A student shall enroll solely by means of executing an enrollment agreement. The
22 enrollment agreement shall be signed by the student and by an authorized employee of the
23 institution.

24 "(b) An enrollment agreement is not enforceable unless all of the following requirements
25 are met:

26

27 "(3) Prior to the execution of the enrollment agreement, the student and the institution have
28 signed and dated the information required to be disclosed in the School Performance Fact Sheet

1 pursuant to subdivisions (a) to (d), inclusive, of Section 94910. Each of these items in the School
2 Performance Fact Sheet shall include a line for the student to initial and shall be initialed and
3 dated by the student.

4 13. Section 94929 of the Code states, in pertinent part:

5 “(a) An institution shall annually report to the bureau, as part of the annual report, and
6 publish in its School Performance Fact Sheet, the completion rate for each program. Except as
7 provided in subdivision (b), the completion rate shall be calculated by dividing the number of on-
8 time graduates by the number of students available for graduation.”

9 **REGULATORY PROVISIONS**

10 14. California Code of Regulations, title 5, section 71230 states:

11 “If the institution offers an educational program, or a portion of it, in a language other than
12 English, the Form Application 94886 shall contain a description of all of the following for each
13 educational program or portion thereof.

14 “(a) The language in which each educational program will be offered.

15 “(b) A statement that the institution has contracted with sufficient duly qualified faculty
16 who will teach each language group of students.

17 “(c) The language of the textbooks and other written materials to be used by each language
18 group of students.”

19 15. California Code of Regulations, title 5, section 71600 states, in pertinent part:

20 “(a) An institution seeking to make a significant change in its method of instructional
21 delivery shall complete the “Significant Change in Method of Instructional Delivery” form (INS
22 rev. 2/10) to obtain prior authorization. For the purposes of this section a “significant change in
23 instructional delivery” is any change that alters the way students interact with faculty or access
24 significant equipment. The form shall be submitted to the Bureau along with the appropriate fee
25 as provided in Section 94930.5(c) of the Code. For an institution approved under section 94885 of
26 the Code, it shall be signed and dated by the signatory(ies) required by section 71380, and for an
27 institution approved under section 94890 of the Code, it shall be signed and dated by the

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1 signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto
2 shall be declared to be true under penalty of perjury, in the following form:

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

5 _____	_____
6 (Date)	(Signature)

7
8 16. California Code of Regulations, title 5, section 71730 states, in pertinent part:

9 "(a) Each institution shall have a chief executive officer, a chief operating officer and chief
10 academic officer. One person may serve more than one function.

11 "(b) The duties, responsibilities, and performance evaluation criteria for each administrator
12 shall be set forth in a personnel manual or other writing maintained by the institution.

13

14 17. California Code of Regulations, title 5, section 71760 states:

15 "Each institution shall develop and maintain adequate procedures used by the institution to
16 assure that it is maintained and operated in compliance with the Act and this Division."

17 18. California Code of Regulations, title 5, section 71930 states, in pertinent part:

18

19 "(c) A record is considered current for three years following a student's completion or
20 withdrawal. A record may be stored on microfilm, microfiche, computer disk, or any other
21 method of record storage only if all of the following apply:

22

23 "(3) The institution has personnel scheduled to be present at all times during normal
24 business hours who know how to operate the devices and can explain the operation of the devices
25 to any person authorized by the Act to inspect and copy records;[.]

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1 “(e) All records that the institution is required to maintain by the Act or this chapter shall be
2 made immediately available by the institution for inspection and copying during normal business
3 hours by the Bureau and any entity authorized to conduct investigations.”

4 19. California Code of Regulations, title 5, section 74112 states, in pertinent part:

5

6 “(d) In addition to the definitions contained in section 94928 of the Code:

7 “(1) “Number of Students Who Began the Program” means the number of students
8 who began a program who were scheduled to complete the program within 100% of the published
9 program length within the reporting calendar year, and excludes all students who cancelled during
10 the cancellation period.

11 “(2) “Number of On-time Graduates” means the number of students who completed
12 the program within 100% of the published program length within the reporting calendar year.

13

14 “(m) Documentation supporting all data reported shall be maintained electronically by the
15 institution for at least five years from the last time the data was included in either an Annual
16 Report or a Performance Fact Sheet and shall be provided to the Bureau upon request; the data for
17 each program shall include at a minimum:

18 “(2) student name(s), address, phone number, email address, program completed,
19 program start date, scheduled completion date, and actual completion date;”

20

21 “(8) for each student determined to be unavailable for graduation or unavailable for
22 employment, the identity of the student, the type of unavailability, the dates of unavailability, and
23 the documentation of the unavailability; and”

24

25 **COST RECOVERY**

26 20. Section 94937, subdivision (c), provides that the Bureau may seek reimbursement
27 costs of investigation and enforcement pursuant Business and Professions Code section 125.3.

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1 26. On or about February 12, 2024, a Bureau investigator interviewed student R.G., who
2 stated that she enrolled at Caledonian in 2022 and has been waiting for two years to attend classes
3 at Caledonian. Following this complaint, the Bureau determined that Respondent was in violation
4 of provisions of the Education Code.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 27. Respondent is subject to disciplinary action under sections 94897, subdivision (q),
8 94937, subdivision (a)(2), and California Code of Regulations, title 5, section 75100, in that
9 Respondent fraudulently enrolled students J.R. and J.M. by applying their signatures to
10 enrollment agreements to collect their vouchers without consent. In interviews with Bureau
11 investigators in August 2022, J.R. and J.M. denied ever signing an enrollment agreement, signing
12 up for courses, or attending courses at Caledonian. Complainant refers to, and by this reference
13 incorporates, the allegations set forth above in paragraphs 22-26, as though set forth fully herein.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Violation of General Enrollment Requirements)**

16 28. Respondent is subject to disciplinary action under sections 94902, subdivisions (a)
17 and (b)(3), 94937, subdivision (a)(2), and California Code of Regulations, title 5, sections 75100
18 and 74112, subdivision (m)(8), in that student files did not contain a current enrollment
19 agreement indicating the students' current status. Additionally, the Student Performance Fact
20 Sheets were not signed, initialed, and dated. Moreover, the student roster did not contain student
21 information related to type, dates, or documentation of graduation status. Complainant refers to,
22 and by this reference incorporates, the allegations set forth above in paragraphs 22-26, as though
23 set forth fully herein.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Engaging in Prohibited Business Practices)**

26 29. Respondent is subject to disciplinary action under Code sections 94897, subdivisions
27 (j)(3) and (k), 94929, subdivision (a), 94937, subdivision (a)(2), and California Code of
28 Regulations, title 5, sections 75100 and 74112, subdivision (d), as follows:

1 a. Respondent failed to accurately calculate data in the Student Performance Fact Sheets
2 for student graduation rates for 2019-2020.

3 b. Respondent concealed four signed enrollment agreements that student R.G. had
4 previously signed.

5 c. Respondent falsified the Student Change of Status Form for student R.G.

6 Complainant refers to, and by this reference incorporates, the allegations set forth above in
7 paragraphs 22-26, as though set forth fully herein.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Failure to Follow Policies/Procedure for Compliance with the Act)**

10 30. Respondent is subject to disciplinary action under Code sections 94897, subdivision
11 (u), 94937, subdivision (a)(2), and California Code of Regulations, title 5, sections 75100 and
12 71760, in that Respondent failed to follow its own Leave of Absence policy. Specifically, the
13 school catalogs for 2018-2023 required a Leave of Absence request to be in writing and approved
14 by the Academic Director. A review of student files revealed that Leave of Absence requests
15 were granted when they were not requested in writing from students and not approved/signed by
16 the Academic Director as required. Complainant refers to, and by this reference incorporates, the
17 allegations set forth above in paragraphs 22-26, as though set forth fully herein.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Violation of Administration Requirements)**

20 31. Respondent is subject to disciplinary action under Code section 94937, subdivision
21 (a)(2) and California Code of Regulations, title 5, sections 75100 and 71730, subdivisions (a) and
22 (b), in that on or around April 28, 2023 during the site visit, Bureau investigators were told by
23 staff that Mr. Guillermo Frias held the positions of chief operating officer, chief executive officer,
24 and chief financial officer of the institution. However, Respondent failed to maintain a file
25 stating the duties, responsibilities, and performance evaluation criteria for each function that Mr.
26 Guillermo Frias served as required. Complainant refers to, and by this reference incorporates, the
27 allegations set forth above in paragraphs 22-26, as though set forth fully herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Failure to Make Records Available Upon Request)**

3 32. Respondent is subject to disciplinary action under Code section 94937, subdivision
4 (a)(2) and California Code of Regulations, title 5, sections 75100, 71930, subsections (c)(3) and
5 (e), and 74112, subsection (m)(8) for failing to have records available to Bureau investigators for
6 inspection. The facts and circumstances are as follows:

7 a. On or around October 19, 2022, a site visit was conducted during which student
8 records were not available upon Bureau request.

9 b. On or around April 28, 2023, another site visit was conducted during which student
10 records were not available upon Bureau request. Mr. Guillermo Frias stated he did not have that
11 documentation available for inspection and would not be able to provide it.

12 Complainant refers to, and by this reference incorporates, the allegations set forth above in
13 paragraphs 22-26, as though set forth fully herein.

14 **SEVENTH CAUSE FOR DISCIPLINE**

15 **(Improper Collection of Tuition Fees)**

16 33. Respondent is subject to disciplinary action under Code sections 94899.5, subdivision
17 (e), 94937, subdivision (a)(2), and California Code of Regulations, title 5, section 75100, for
18 improperly accepting student payments in full when the student files were not complete.
19 Specifically, student files did not contain enrollment agreements, updated enrollment agreements,
20 or completed School Performance Fact Sheets. Therefore, students were not properly accepted
21 and enrolled in the institution and therefore not required to pay tuition. Complainant refers to,
22 and by this reference incorporates, the allegations set forth above in paragraphs 22-26, as though
23 set forth fully herein.

24 **EIGHTH CAUSE FOR DISCIPLINE**

25 **(Substantive Changes to Approval to Operate without Prior Authorization)**

26 34. Respondent is subject to disciplinary action under Code sections 94893, 94894,
27 subdivisions (e) and (g), 94937, subdivision (a)(2), and California Code of Regulations, title 5,
28 sections 75100, 71600, subdivision (a), and 71230 in that Respondent made substantive changes

1 to its approval to operate without obtaining prior authorization from the Bureau as required. The
2 facts and circumstances are as follows:

3 a. On or around October 19, 2022 and April 28, 2023, it was revealed to Bureau
4 investigators that Respondent made a change of location and a change in the method of
5 instructional delivery when students were taught on-line, in the students' homes, in local libraries,
6 or a library near the students' homes, without prior Bureau approval.

7 b. On or around April 4, 2023 and April 28, 2023, Bureau investigators discovered that
8 Respondent changed a method of instructional delivery when it offered English as a Second
9 Language (ESL) class, without prior Bureau approval to offer ESL programs.

10 Complainant refers to, and by this reference incorporates, the allegations set forth above in
11 paragraphs 22-26, as though set forth fully herein.

12 **DISCIPLINARY CONSIDERATION**

13 35. To determine the degree of discipline, if any, to be imposed on Respondent,
14 Complainant alleges that Respondent was issued citation number 1415023 on April 27, 2015 for
15 failure to timely submit an Annual Report. Respondent was issued a \$5,000.00 fine, which was
16 paid on June 25, 2015. The citation is now final.

17 **PRAYER**

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

21 1. Revoking or suspending Approval to Operate Number 1939291, issued to
22 Caledonian, owned by Caledonian, Inc.; Guillermo Frias as Owner and Director;

23 2. Ordering Caledonian, owned by Caledonian, Inc.; Guillermo Frias as Owner and
24 Director to pay the Bureau for Private Postsecondary Education the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3; and,

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

DATED: 10/11/2024

"Original Signature on File"
DEBORAH COCHRANE
Chief
Bureau for Private Postsecondary
Education
Department of Consumer Affairs
State of California
Complainant

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