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

12  
13  
14 In the Matter of the Accusation Against:

Case No. 1004198

15 **COMPUTER INSTITUTE OF**  
**TECHNOLOGY; RENE AGUERO,**  
**OWNER**  
16 6444 Bellingham Avenue, Suite 201, 202  
North Hollywood, CA 91605

**FIRST AMENDED ACCUSATION**

17 **Institution Code No. 1936371**

18 Respondent.

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21  
22 Complainant alleges:

23 **PARTIES**

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

27 2. On or about February 6, 1998, the Bureau issued Approval to Operate Number  
28 1936371 to Computer Institute of Technology, Rene Aguero (Respondent). The Approval to

1 Operate was in full force and effect at all times relevant to the charges brought herein and an  
2 application for Renewal of Approval to Operate a Non-Accredited Institution is currently  
3 pending.

4 **JURISDICTION**

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

8 **STATUTORY PROVISIONS<sup>1</sup>**

9 4. Section 94937, subdivision (a)(1) of the Code states:

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

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

15 ...”

16 5. Section 94877 of the Code states:

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

20 (b) The bureau shall develop and implement an enforcement program, pursuant to Article  
21 18 (commencing with Section 94932 ) to implement this chapter. The enforcement program  
22 shall include a plan for investigating complaints filed with the bureau. The bureau shall contract  
23 with the office of the Attorney General, or other appropriate state agency, to establish a process  
24 for the bureau's staff to be trained to investigate complaints, including, but not limited to, the  
25 information, evidence, and materials needed to process complaints.

26  
27 <sup>1</sup> On October 11, 2009, the California Private Postsecondary Education Act of 2009 was  
28 signed into law. (Educ. Code §§ 94800, et seq.) The Act was recently amended, effective January  
1, 2019.

1 (c) The bureau shall institute training to ensure that its staff are equipped to review and  
2 verify the accuracy of the data contained in consumer disclosures, including, but not limited to,  
3 the School Performance Fact Sheet.

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

7 6. Section 94932 states:

8 “The bureau shall determine an institution’s compliance with the requirements of this  
9 chapter. The bureau shall have the power to require reports that institutions shall file with the  
10 bureau in addition to the annual report, to send staff to an institution’s sites, and to require  
11 documents and responses from an institution to monitor compliance. When the bureau has reason  
12 to believe that an institution may be out of compliance, it shall conduct an investigation of the  
13 institution. If the bureau determines, after completing an investigation, that an institution has  
14 violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this  
15 article.”

16 7. Section 94897 of the Education Code states in relevant part:

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

18 ...

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

23 ...

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

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28 ///

1           8.     Section 94930.5 states in relevant part:

2           “Subject to Section 94930 , an institution shall remit to the bureau for deposit in the Private  
3 Postsecondary Education Administration Fund the following fees, in accordance with the  
4 following schedule:

5           ...

6           (d)(1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c),  
7 inclusive, each institution that is approved to operate pursuant to this chapter shall remit both of  
8 the following:

9           (A) An annual fee for each campus designated by the institution as a main campus  
10 location in California, in an amount equal to 0.45 percent of the campus' total gross revenue  
11 derived from students in California, but not to be less than two thousand five hundred dollars  
12 (\$2,500) and not to exceed sixty thousand dollars (\$60,000).

13           (B) An annual campus fee for each branch of the institution in an amount equal to  
14 0.45 percent of the branch's total gross revenue derived from students in California, but not to be  
15 less than two thousand five hundred dollars (\$2,500) and not to exceed sixty thousand dollars  
16 (\$60,000).”

17           9.     Section 94893 states:

18           “If an institution intends to make a substantive change to its approval to operate, the  
19 institution shall receive prior authorization from the bureau. Except as provided in subdivision  
20 (a) of Section 94896 , if the institution makes the substantive change without prior bureau  
21 authorization, the institution's approval to operate may be suspended or revoked.”

22           10.    Section 94894 states, in relevant part:

23           “The following changes to an approval to operate are considered substantive changes and  
24 require prior authorization:

25           ...

26           (b) A change in ownership.

27           (c) A change in control.

28           (d) A change in business organization form.

1 ...”

2 **REGULATORY PROVISIONS**

3 11. California Code of Regulations, title 5, section 74006 states:

4 “(a) An institution's annual fee is due within 30 days of the date on which the institution  
5 originally receives its approval to operate and each year thereafter on the anniversary of the date  
6 of the original approval.

7 (b) An institution shall pay its annual fee in addition to any other applicable fees.

8 (c) The annual institutional fee is based on the institution's annual revenue. For purposes of  
9 this article, annual revenue is annual gross revenue.”

10 12. California Code of Regulations, title 5, section 71640, subdivisions (a)-(d) states:

11 “(a) An institution seeking to change the business organization form, control, or ownership  
12 as defined in sections 94821, 94822, or 94823, respectively shall complete the “Change of  
13 Business Organization/Control/Ownership” form (OWN rev. 2/10) to obtain prior authorization.  
14 The form shall be submitted to the Bureau along with the appropriate fee as provided in Section  
15 94930.5(c) of the Code. An application under this section shall be signed by all signatories to the  
16 initial application, or the last approved application under this section, as well as the persons  
17 required to sign an application pursuant to section 71380 for institutions approved under section  
18 94885 of the code and section 71390 for institutions approved under section 94890 of the code.  
19 Each signature shall be dated, and each fact stated therein and each attachment thereto shall be  
20 declared to be true under penalty of perjury, in the following form:

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

23 \_\_\_\_\_  
24 (Date) (Signature)'

25 (b) An application for a change in ownership or control shall identify the name, title,  
26 address, e-mail address and telephone number of each new person required to be listed pursuant  
27 to section 71130 in an application, as well as the persons previously listed pursuant to section  
28

1 71130 that will no longer have ownership or control. For each proposed person listed, the  
2 application shall include the information required pursuant to section 71130(b), (c), and (d).

3 (c) An application for a change in the form of business organization of the institution shall  
4 identify the approved organization as well as the proposed organization. If the proposed  
5 organization is incorporated, the application shall also identify the state within which the  
6 proposed organization is incorporated and the date of incorporation, along with copies of the  
7 articles of incorporation and bylaws. To the extent that a change in the form of business  
8 organization represents a change in ownership or control, the application shall include the  
9 information required by subdivision (b) of this section.

10 (d) In addition to the above required information, each application under this section shall  
11 include:

12 (1) The name, address, telephone number, fax number, and school code of the  
13 institution;

14 (2) The reason for the proposed change;

15 (3) The impact of the change on the financial resources of the institution, including  
16 the institution's ability to comply with section 71745;

17 (4) A description of the planned administrative relationship between the persons  
18 previously approved and the proposed owners or persons in control, including the nature and  
19 extent of the supervision by the chief academic officer, chief operating officer, chief executive  
20 officer, and administrators; and

21 (5) Any additional information required by the Bureau pursuant to section 71340 of  
22 this Chapter; and

23 (6) The name, address, email address, telephone number and fax number of the  
24 contact person for this application.

25 ...”

26 13. California Code of Regulations, title 5, section 74110 states:  
27  
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1 license to not being renewed or reinstated. If a case settles, recovery of investigation and  
2 enforcement costs may be included in a stipulated settlement.

3 15. Section 94937 of the Code provides, in pertinent part, that the Bureau may seek  
4 reimbursement costs of investigation and enforcement pursuant to section 125.3 of the Business  
5 and Professions Code but that an institution shall not be required to pay the cost of investigation  
6 to more than one agency.

### 7 **FACTUAL BACKGROUND**

#### 8 **Main Campus, Institution Code #1936371**

9 16. On or about August 4, 2010, the Bureau received Respondent's Application for  
10 Renewal of Approval to Operate a Non-Accredited Institution. On or about April 4, 2012, the  
11 Bureau approved Respondent's Approval to Operate an Institution at 11631 Victory Blvd, Ste  
12 205, North Hollywood, CA 91606. Respondent's owner, Rene Agüero (Agüero), reported that  
13 Respondent was an individually owned; sole proprietorship and he had 100% ownership of  
14 Respondent. Agüero reported that his Federal Identification Number was XX-XXXX336.

15 17. On or about February 2, 2013, Respondent notified the Bureau of their change of  
16 location to 6444 Bellingham Ave, Ste 201 and 202, North Hollywood, CA 91605.

#### 17 **Bell Branch, School Code #72482287**

18 18. On or about August 4, 2010, the Bureau received Respondent's Application for  
19 Addition of a Separate Branch. On or about April 18, 2012, the Bureau approved Respondent's  
20 Application to operate an additional branch at 132 N. Chicago St, Los Angeles, CA 90033.  
21 Agüero reported that he was the sole owner of Respondent. On or about August 27, 2012, the  
22 Bureau approved a change of location for this branch to 4126 E. Gage Ave, Bell, GA 90201.

#### 23 **Tujunga Branch, School Code #78788747**

24 19. On or about October 24, 2011, the Bureau received an Application for Addition of a  
25 Separate Branch from Respondent. On or about April 18, 2012, the Bureau approved  
26 Respondent's application to operate at 13601 Whittier Blvd, Whittier, CA 90605. Again, Agüero  
27 reported that he was the sole owner of Respondent. On or about March 23, 2013, the Bureau  
28 approved a change of location for this branch to 6501 Foothill Blvd, Ste 204, Tujunga, CA 91042.







1 identification number. Complaint refers to, and by this reference incorporates paragraphs 17  
2 through 24 as though set forth in full.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Annual Report Violations)**

5 32. Respondent is subject to disciplinary action under Code section 94897, subdivision  
6 (j)(3) in conjunction with Title 5 of the California Code of Regulations, section 74110,  
7 subdivisions (a)(5), in that Respondent failed to accurately report the Workforce Innovation  
8 Opportunity Act (WIOA) funds received in their 2015 and 2016 Annual Reports to the Bureau.  
9 The circumstances are as follows:

10 33. Respondent's Annual Report for 2015 stated that Respondent received \$84,000 in  
11 WIOA funds. However, the Employment Development Department which distributes the funds  
12 on behalf of the federal government, reported paying Respondent \$361,000.

13 34. Respondent's Annual Report for 2016 stated that Respondent received \$120,000 in  
14 WIOA funds. However, the Employment Development Department which distributes the funds  
15 on behalf of the federal government, reported paying Respondent \$320,708. Complaint refers to,  
16 and by this reference incorporates paragraphs 17 through 24 as though set forth in full.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Obtaining Approval to Operate by Fraud)**

19 35. Respondent is subject to disciplinary action under Code section 94937, subdivision  
20 (a)(1) in that Respondent submitted false and misleading documents to the Bureau in order to  
21 obtain approval to operate the Bell and Tujunga locations. Complaint refers to, and by this  
22 reference incorporates paragraphs 17 through 36 as though set forth in full.

23 **PRAYER**

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

27 1. Revoking Approval to Operate Institution Code Number 1936371, issued to  
28 Computer Institute of Technology, Rene Aguero;

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2. Ordering Rene Agüero to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to 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.  
Chief  
Bureau for Private Postsecondary Education  
Department of Consumer Affairs  
State of California  
*Complainant*

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