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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
13 In the Matter of the Statement of Issues
Against:
14 **DYNASTY TRUCKING SCHOOL**
15
16 **Application for Renewal of Approval to**
Operate a Non-Accredited Institution
17
18 **Institution No. 58669630**
Respondent.

Case No. 1006656

STATEMENT OF ISSUES

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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, Department of
23 Consumer Affairs.

24 2. On or about September 6, 2019, the Bureau for Private Postsecondary Education
25 received an application for Renewal of Approval to Operate a Non-Accredited Institution from
26 Dynasty Trucking School, Inc., Jimmy Peng, Owner of Dynasty Trucking School (Respondent).
27 On or about September 5, 2019, Jimmy Peng certified under penalty of perjury to the truthfulness
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1 of all statements, answers, and representations in the application. The Bureau denied the
2 application on November 2, 2020.

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 Education Code (Code) unless
7 otherwise indicated.

8 **STATUTORY PROVISIONS**

9 4. Section 94891 states in pertinent part:

10 (a) The bureau shall adopt by regulation the process and procedures whereby an institution
11 may obtain a renewal of an approval to operate.

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

14 **REGULATORY PROVISIONS**

15 5. California Code of Regulations (C.C.R.), title 5, section 71710, subdivisions (c) and
16 (e) provide, in pertinent part:

17 (c) course or module materials that are designed or organized by duly qualified
18 faculty. For each course or module, each student shall be provided with a syllabus or
19 course outline that contains:

- 20 (1) a short, descriptive title of the educational program;
- 21 (2) a statement of educational objectives;
- 22 (3) length of the educational program;
- 23 (4) sequence and frequency of lessons or class sessions;
- 24 (5) complete citations of textbooks and other required written materials;
- 25 (6) sequential and detailed outline of subject matter to be addressed or a list of
- 26 skills to be learned and how those skills are to be measured;
- 27 (7) instructional mode or methods.

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(e) specific learning outcomes tied to the sequence of the presentation of the
material to measure the students' learning of the material; and

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6. C.C.R., title 5, section 71745 states:

(a) The institution shall document that it has at all times sufficient assets and financial resources to do all of the following:

(1) Provide all of the educational programs that the institution represented it would provide.

(2) Ensure that all students admitted to its educational programs have a reasonable opportunity to complete the programs and obtain their degrees or diplomas.

(3) Maintain the minimum standards required by the Act and this chapter.

(4) Pay timely refunds as required by Article 13 of the Act.

(5) Pay all operating expenses due within 30 days.

(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal year when using generally accepted accounting principles, or for an institution participating in Title IV of the federal Higher Education Act of 1965, meet the composite score requirements of the U.S. Department of Education. For the purposes of this section, current assets does not include: intangible assets, including goodwill, going concern value, organization expense, startup costs, long-term prepayment of deferred charges, and non-returnable deposits, or state or federal grant or loan funds that are not the property of the institution but are held for future disbursement for the benefit of students. Unearned tuition shall be accounted for in accordance with general accepted accounting principles.

(b) At an institution's request, the Bureau may consider the financial resources of a parent company if the parent company, as defined by section 94853 of the Code, meets and maintains all of the following provisions:

(1) consents in writing to be sued in California;

(2) consents in writing to be subject to the jurisdiction of the Bureau with respect to the institution's regulation under the Act and this Chapter;

(3) designates and maintains an agent for service of process, consistent with section 74190;

(4) agrees in writing to pay any refund, claim, penalty, or judgment that the institution is obligated to pay; and

(5) files financial reports, maintains financial records, and consents in writing to permit the inspection and copying of financial records to the same extent as is required of the institution.

(c) An institution shall provide to the Bureau its most current financial statements upon request.

7. C.C.R., title 5, section 74115 states:

(a) This section applies to every set of financial statements required to be prepared or filed by the Act or by this chapter.

1 (b) A set of financial statements shall contain, at a minimum, a balance sheet,
2 an income statement, and a cash flow statement, and the preparation of financial
statements, shall comply with all of the following:

3 (1) Audited and reviewed financial statements shall be conducted and prepared
4 in accordance with the generally accepted accounting principles established by the
American Institute of Certified Public Accountants by an independent certified public
5 accountant who is not an employee, officer, or corporate director or member of the
6 governing board of the institution.

7 (2) Financial statements prepared on an annual basis as required by section
8 74110(b) shall be prepared in accordance with the generally accepted accounting
9 principles established by the American Institute of Certified Public Accountants.

10 Nonprofit institutions shall provide annual financial statements as required under
11 generally accepted accounting principles for nonprofit organizations.

12 (3) The financial statements shall establish that the institution meets the
13 requirements for financial resources required by Section 71745.

14 (4) If an audit performed to determine compliance with any federal or state
15 student financial aid program reveals any failure to comply with the requirements of
16 the program and the noncompliance creates any liability or potential liability for the
17 institution, the financial statements shall reflect the liability or potential liability.

18 (5) Any audits shall demonstrate that the accountant obtained an understanding
19 of the institution's internal financial control structure, assessed any risks, and has
20 reported any material deficiencies in the internal controls.

21 (c) Work papers for the financial statements shall be retained for five years
22 from the date of the statements and shall be made available to the Bureau upon
23 request.

24 (d) "Current" with respect to financial statements means completed no sooner
25 than 120 days prior to the time it is submitted to the Bureau, and covering no less than
26 the most recent complete fiscal year. If more than 8 months will have elapsed
27 between the close of the most recent complete fiscal year and the time it is submitted,
28 the fiscal statements shall also cover no less than five months of that current fiscal
year.

8. C.C.R., title 5, section 71720, subdivision (b) states:

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

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

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

1 (3) The institution shall not employ or continue to employ an instructor who
2 was adjudicated in a judicial or administrative proceeding as having violated any
3 provision of the Act or this chapter, or as having committed any act that would
4 constitute grounds for the denial of a license under Section 480 of the Business and
5 Professions Code.

6 9. C.C.R., title 5, section 76130 states:

7 (a)(1) A qualifying institution shall collect the assessment from each student in
8 an educational program at the time it collects the first payment from or on behalf of
9 the student at or after enrollment. The assessment shall be collected for the entire
10 period of enrollment, regardless of whether the student pays the institutional charges
11 in increments.

12 (2) The assessment to be collected from a re-enrolling student shall be limited
13 to any amount that is due after crediting any prior assessment amount paid by the
14 student. The enrollment agreement shall clearly identify any prior STRF assessment
15 paid by the student.

16 (b) A qualifying institution shall complete the STRF Assessment report and
17 remit it with the STRF assessments collected from students to be received by the
18 Bureau no later than the last day of the month following the close of the quarter as
19 follows:

- 20 (1) April 30 for the first quarter,
- 21 (2) July 31 for the second quarter,
- 22 (3) October 31 for the third quarter, and
- 23 (4) January 31 for the fourth quarter.

24 If the due date falls on a Saturday, Sunday, or State or federal holiday, the due
25 date shall be extended to the next regular business day for the Bureau.

26 (c) The STRF Assessment report shall contain the following information:

27 (1) Total number of students who signed enrollment agreements for educational
28 programs during the reporting period; and

(2) Total number of students eligible for STRF who signed enrollment
agreements for educational programs during the reporting period; and

(3) The total number of students who signed their enrollment agreement during
the reporting period, were eligible for STRF, and who made their first payment
during the reporting period; and

(4) The total number of students who signed their enrollment agreement in a
previous reporting period, were eligible for STRF, and who made their first payment
during the current reporting period; and

(5) Total amount of institutional charges after rounding each student's
institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF
assessment was collected in the reporting period; and

(6) Current contact telephone number of the person preparing the form; and

(7) A declaration dated and signed under penalty of perjury by the person
preparing the form that the form and any attachments are true and correct.

(d) In the event of a school closure, any collected assessments shall be remitted
to the Bureau within seven days following the cessation of instruction.

1 (e) Submission of all prior reports and assessments required by this section is a
2 condition of renewal.

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 (Failure to Submit Education Program Course Materials)

5 10. Respondent's application is subject to denial because it failed to submit course
6 materials/syllabus as required by C.C.R., title 5, § 71710, subdivisions (c) and (e). The
7 circumstances of the noncompliance are as follows:

8 a. As part of the deficiency letter dated June 2, 2020, the Bureau requested the institution
9 provide a syllabus that is compliant with C.C.R., title 5, §71710, subdivisions (c) and (e), for each
10 program. As of the denial letter date, the Bureau has not received a response.

11 **SECOND CAUSE FOR DENIAL OF APPLICATION**

12 (Failure to Submit Financial Statements)

13 11. Respondent's application is subject to denial because it failed to comply with C.C.R.,
14 title 5, §§ 71745 and 74115. The circumstances of the noncompliance are as follows:

15 a. As part of the deficiency letter dated June 2, 2020, the Bureau requested Respondent
16 provide either "Reviewed" or "Audited" financial statements. As of the denial letter date, the
17 Bureau has not received a response.

18 **THIRD CAUSE FOR DENIAL OF APPLICATION**

19 (Failure to Submit List of Faculty)

20 12. Respondent's application is subject to denial because it failed to comply with C.C.R.,
21 title 5, § 71720(b). The circumstances of the noncompliance are as follows:

22 a. As part of the deficiency letter dated June 2, 2020, the Bureau requested the institution
23 provide a list of faculty members employed by the institution. In addition, the Bureau requested
24 the institution provide a curriculum vitae or resume for those faculty members. As of the denial
25 letter date, the Bureau has not received a response.

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FOURTH CAUSE FOR DENIAL OF APPLICATION

(Failure to Submit Student Tuition Recovery Fund Assessments)

13. Respondent's application is subject to denial because it failed to comply with C.C.R., title 5, § 76130. The circumstances of that noncompliance are as follows:

a. Respondent has failed to submit the following Student Tuition Recovery Fund (STRF) Assessments for the 4th quarter of 2019, and the 3rd quarter of 2020.

PRAYER

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

1. Denying the Renewal Application of Dynasty Trucking School Inc., Jimmy Peng, Owner of Dynasty Trucking School, School Code 58669630;
2. Taking such other and further action as deemed necessary and proper.

DATED: "4/27/2021"

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

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