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8
9 **BEFORE THE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
12 **STATE OF CALIFORNIA**

13
14 In the Matter of the Accusation Against:

Case No. 1001103

15 **UNITED SCHOOL OF AMERICA, INC.,**
16 **DBA UNITED SCHOOL OF AMERICA**
721 East Ball Road, Suite 102
Anaheim, CA 92805

ACCUSATION

17 **Approval to Operate an Institution Non-**
18 **Accredited School Code 3014371**

Respondent.

19
20 **PARTIES**

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

24 2. On or about May 31, 2002, the Bureau for Private Postsecondary Education issued an
25 Approval to Operate Institution Non-Accredited, School Code 3014371, to United School of
26 America, Inc., dba United School of America (Respondent). The Approval to Operate an
27 Institution was in full force and effect at all times relevant to the charges brought herein and will
28 expire on June 29, 2020, unless renewed.

JURISDICTION

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

4. Section 118 of the Business and Professions Code provides, in pertinent part:

...

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

5. Section 477 of the Business and Professions Code states:

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

6. Code section 94932 states:

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

7. Code section 94933 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.

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1 8. Code section 94937 states, in pertinent part:

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

6 ...

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

13 ...

14 (c) The bureau may seek reimbursement pursuant to Section 125.3 of the
15 Business and Professions Code.

16 ...

17 **STATUTORY PROVISIONS**

18 9. Section 94897 of the Education Code states:

19 An institution shall not do any of the following:

20 ...

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

25 (1) A financial report filed with the bureau.

26 (2) Information or records relating to the student's eligibility for student
27 financial aid at the institution.

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

...

10. Section 94902 of the Code states:

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

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

1 (1) The student has received the institution's catalog and School Performance
2 Fact Sheet prior to signing the enrollment agreement.

3 (2) At the time of the execution of the enrollment agreement, the institution held a
4 valid approval to operate.

5 (3) Prior to the execution of the enrollment agreement, the student and the
6 institution have signed and dated the information required to be disclosed in the
7 Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of
8 Section 94910 . Each of these items in the Student Performance Fact Sheet shall
9 include a line for the student to initial and shall be initialed and dated by the student.

10 (c) A student shall receive a copy of the signed enrollment agreement, in
11 writing or electronically, regardless of whether total charges are paid by the student.

12 11. Section 94904 of the Code provides, in pertinent part:

13 (a) Except as provided in subdivision (c), before an ability-to-benefit student may
14 execute an enrollment agreement, the institution shall have the student take an
15 independently administered examination from the list of examinations prescribed by
16 the United States Department of Education pursuant to Section 484(d) of the federal
17 Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.). The student shall not
18 enroll unless the student achieves a score, as specified by the United States
19 Department of Education, demonstrating that the student may benefit from the
20 education and training being offered.

21 ...

22 12. Section 94911 of the Education Code states:

23 An enrollment agreement shall include, at a minimum, all of the following:

24 (a) The name of the institution and the name of the educational program, including
25 the total number of credit hours, clock hours, or other increment required to
26 complete the educational program.

27 (b) A schedule of total charges, including a list of any charges that are
28 nonrefundable and the student's obligations to the Student Tuition Recovery Fund,
clearly identified as nonrefundable charges.

REGULATORY PROVISIONS

13. CCR, title 5, section 71717 states:

(a) An institution offering instruction at a satellite location as defined by section
94862 of the Code shall only offer instruction for educational programs that are
approved for the main campus or a branch.

(b) The institution shall not maintain any permanent student records there.

(c) No solicitation or enrollment of students shall occur at a satellite.

(d) Advertising indicating the location of a satellite shall indicate the nature of the
classroom.

1 14. CCR, title 5, section 71800 states:

2 In addition to the requirements of section 94911 of the Code, an institution shall
3 provide to each student an enrollment agreement that contains at the least the
4 following information:

5 ...

6 (b) Period covered by the enrollment agreement.

7 (c) Program start date and scheduled completion date.

8 ...

9 (e) Itemization of all institutional charges and fees including, as
10 applicable:

11 (1) tuition;

12 (2) registration fee (non-refundable);

13 (3) equipment;

14 (4) lab supplies or kits;

15 (5) Textbooks, or other learning media;

16 (6) uniforms or other special protective clothing;

17 (7) in-resident housing;

18 (8) tutoring;

19 (9) assessment fees for transfer of credits;

20 (10) fees to transfer credits;

21 (11) Student Tuition Recovery Fund fee (non-refundable);

22 (12) any other institutional charge or fee.

23 15. CCR, title 5, section 71920, provides, in pertinent part:

24 ...

25 (b) In addition to the requirements of section 94900, the file shall contain all
26 of the following pertinent student records:

27 (1) Written records and transcripts of any formal education or
28 training, testing, or experience that are relevant to the student's qualifications for
admission to the institution or the institution's award of credit or acceptance of
transfer credits including the following:

(A) Verification of high school completion or equivalency or

1 other documentation establishing the student's ability to do college level work, such
2 as successful completion of an ability-to-benefit test;

3 ...

4 **COST RECOVERY**

5 16. Section 125.3 of the Business and Professions Code provides, in pertinent part, that
6 the Bureau may request the administrative law judge to direct a licentiate found to have
7 committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable
8 costs of the investigation and enforcement of the case, with failure of the licentiate to comply
9 subjecting the license to not being renewed or reinstated. If a case settles, recovery of
10 investigation costs may be included in a stipulated settlement.

11 **FACTUAL ALLEGATIONS**

12 17. Respondent is an incorporated for-profit school located in Anaheim, California.
13 Respondent received Bureau approval to operate fourteen educational programs. Respondent's
14 catalog indicates that the school specializes in working with the injured worker population and
15 accepts payment through the Supplemental Job Displacement Benefit Program (SJDB)
16 administered by the California Department of Industrial Relations (DIR). The DIR may
17 administer a SJDB voucher as part of the injured worker's compensation claim settlement.
18 Voucher amounts total \$6,000.00. Once used, the voucher money is no longer available for
19 student use at a different school. The voucher payment requires \$500.00 be paid directly to the
20 student for miscellaneous expenses, up to \$1,000.00 may be used for computer or necessary
21 training related equipment paid directly to the equipment vendor, or to the student as
22 reimbursement upon proof of expenses. Up to 10% may be used for return to work counselor
23 services. The student may receive a refund if the student cancels or withdraws within the
24 school's policy period.

25 18. On or about November 2, 2015, the Bureau received a complaint from twelve
26 students alleging lack of instruction, denial of refunds, and denial of copies of records. Between
27 February 17, 2016, and November 9, 2018, the Bureau received seven additional complaints from
28 former students. The complaints raised similar allegations to the November 2, 2015 complaint.

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1 19. On or about November 26, 2018, investigators for the Bureau arrived at Respondent's
2 main campus. A receptionist led the investigators to another building and showed the
3 investigators the conference room, restrooms, break room, director's office, office manager's
4 office, classrooms, and additional staff offices. The investigators interviewed Respondent's
5 director, LM. LM admitted that the Bureau approved the location as a satellite campus, but that
6 the building did not meet the statutory requirement of a satellite location because Respondent
7 maintained student records on the premises and completed enrollment agreements on the
8 premises.

9 20. During the investigation on campus, Investigator BB reviewed student files for the
10 Computer Clerical Office Business Skills (CCOBS) program. The course catalogue indicated the
11 cost of the program totaled \$6,000.00. The enrollment agreements reflected the program totaled
12 \$6,000.00. Students PL and MC enrolled in the CCOBS program. PL's enrollment agreement
13 records show total charges of \$4,500.00, student MC enrollment agreement records show total
14 charges of \$5,400.00. When questioned about the discrepancies between the course catalog
15 pricing and enrollment agreement charges, LM stated that it may be due to the insurance carrier
16 providing payment directly to the student.

17 21. Investigator BB received Respondent's Student Tuition Recovery Fund for the year
18 2017. Records reflected 130 entries for amounts greater than the advertised educational program
19 cost of \$6,000.00. These amounts exceeded the catalog advertised price.

20 22. On or about December 14, 2018, Investigator BB received additional student files,
21 including four files for students enrolled in the CCOBS program. The enrollment agreements for
22 students DD and HN reflected 500 required hours, whereas the enrollment agreements for
23 students MM and GM reflected 600 required hours. Student CS enrolled in the Computer Repair
24 Technician (CRT) program. Respondent's catalog indicated 500 required hours. Student CS's
25 enrollment agreement indicated 720 required hours.

26 23. Student MM obtained an SJDB voucher totaling \$10,000.00. MM's enrollment
27 agreement indicated that she would enroll in Respondent's photography course for the period
28 October 20, 2014 through May 1, 2015 at their main campus location. Respondent enrolled MM

1 in an unapproved course at another school. The enrollment agreement does not list, indicate, or
2 mention MM would attend any other course at any other school.

3 24. In the course of the investigation, the investigators for the Bureau collected and
4 copied many documents, including but not limited to student files, the 2014 through 2018 school
5 catalog, and student enrollment agreements. The investigators determined that Respondent
6 violated the following sections of the Code and the California Code of Regulations, as follows:

7 a. Respondent submitted enrollment agreements that list misleading tuition and itemized
8 amounts other than those advertised in their catalogs for the following students: HN, GM, SC,
9 RJ, RJ2, EC, AG, HJ, JG, JT, ME, MM, MM2, MM3, EN, GA, CS, MG, GL, AN, IG, MO, DT,
10 LH, SV, DD, CB, and PL.

11 b. Respondent failed to complete enrollment agreements in their entirety, deviated from
12 their catalog advertised and approved hourly credits, and deviated from their catalog advertised
13 fees and charges for the following students: SC, RJ, RJ2, MG, GL, MM, MM2, MM3, EC, AG,
14 HJ, JG, JT, ME, MC, PL, MA, LA, GA, IG, HN, CS, LH, SV, AND DD.

15 c. Respondent enrolled ability-to-benefit students LA and SV before they took and
16 successfully passed an acceptable ability to test exam.

17 d. A review of student records students LA, DD, GM, SV, and HN did not contain proof
18 of high school graduation or equivalency.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Prohibited Business Practices-Making untrue or Misleading Statements -**
21 **Education Code §94897 (j))**

22 25. Respondent's approval to operate is subject to disciplinary action for making
23 untrue statements and falsifying documentation in violation of Education Code section 94897(j),
24 in that Respondent submitted enrollment agreements that list misleading tuition and itemized
25 amounts other than those advertised in their catalogs for the following students: HN, GM, SC,
26 RJ, RJ2, EC, AG, HJ, JG, JT, ME, MM, MM2, MM3, EN, GA, CS, MG, GL, AN, IG, MO, DT,
27 LH, SV, DD, CB, and PL.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(General Enrollment Agreement Violations – Education Code §§94902, 94911(a),(b), and**
3 **CCR title 5, §71800(b),(c), and (e)(1-12))**

4 26. Respondent’s approval to operate is subject to disciplinary action for multiple
5 violations of enrollment agreements as required by Education Code sections 94902, 94911, and
6 California Code of Regulations, title 5, section 71800, subdivisions (b), (c), and (e)(1-12) in that
7 Respondent failed to complete enrollment agreements in their entirety, deviated from their catalog
8 advertised and approved hourly credits, and deviated from their catalog advertised fees and
9 charges for the following students: SC, RJ, RJ(2), MG, GL, MM, MM(2) EC, AG, HJ, JG, JT,
10 ME, MM, MC, PL, MA, LA, GA, IG, HN, CS, LH, SV, MC, GM EN, AN, and DD.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Ability to Benefit Students- Education Code §94904)**

13 27. Respondent’s approval to operate is subject to disciplinary action under Code section
14 94904, subdivision (a), by enrolling ability-to-benefit students LA and SV before they took and
15 successfully passed an acceptable ability to test exam.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Satellite Location – CCR, title 5, § 71717 (b))**

18 28. Respondent’s approval to operate is subject to disciplinary action for operating a
19 satellite location that does not meet the definition of a satellite location as defined by Code
20 section 94862, as the location housed student records and enrollments are completed at the
21 location as set forth in paragraph 19 above.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Student Record Violations – CCR, title 5, § 71920 (b)(1)(A))**

24 29. Respondent’s approval to operate is subject to disciplinary action for failing to
25 maintain complete and accurate institutional records as required by California Code of
26 Regulations, title 5, sections 71920(a), (b)(1)(A), in that the records did not include proof of high
27 school completion or equivalency for the following students: LA, DD, GM, SV, and HN.

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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. Revoking or suspending Approval to Operate an Institution Non-Accredited School Code 3014371, issued to United School of America, Inc., dba United School of America;
- 2. Ordering United School of America 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: “3/5/2020”

“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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