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8			
9	BEFORE THE DEPARTMENT OF CONSUMER AFFAIRS		
10	FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION STATE OF CALIFORNIA		
11	STATE OF CALIFORNIA		
12			
13			
14	In the Matter of the Accusation Against: Case No. 1004198		
15	COMPUTER INSTITUTE OF TECHNOLOGY; RENE AGUERO,		
16	OWNER 6444 Bellingham Avenue, Suite 201, 202 FIRST AMENDED ACCUSATION		
17	North Hollywood, CA 91605		
18	Institution Code No. 1936371		
19	Respondent.		
20			
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		
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION		

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 ¹				
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 28	¹ On October 11, 2009, the California Private Postsecondary Education Act of 2009 was signed into law. (Educ. Code §§ 94800, et seq.) The Act was recently amended, effective January 1, 2019.				
	2				
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION				

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."				
25	///				
26	///				
27	///				
28	///				
	3				
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION				

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.				
	4				
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION				

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				
	5			
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION			

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					
28					
	6				
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION				

1	"(a) The annual report required by Section 94934 of the Code shall include the information			
2	required by sections 94929.5 and 94934 for all educational programs offered in the prior calendar			
3	year, and all of the following for the prior calendar year:			
4	(1) Information regarding institutional branch campuses, including addresses and			
5	programs offered at each campus, if applicable;			
6	(2) Information regarding satellite locations, including addresses and with which			
7	campus(es) the satellite location is affiliated, if applicable;			
8	(3) Name of institutional accreditors for each branch and satellite campus, and for			
9	each such campus at which any programs have programmatic accreditation, the names of the			
10	programmatic accreditor for each such program, and effective dates for each programmatic			
11	accreditation, if applicable;			
12	(4) Information regarding participation in state and federal student loan and grant			
13	programs, including the total amount of funding received from each source for those students			
14	enrolled in an approved California school regardless of their state of residency;			
15	(5) Information regarding participation in other public funding programs, including			
16	the amount of funding received from each public funding source; for purposes of this section,			
17	public funding is any financial aid paid on behalf of students or directly to an institution from any			
18	public source, such as the Workforce Investment Act, any veterans' financial aid programs			
19	pursuant to Section 21.4253 of Title 38 of the Code of Federal Regulations or any other financial			
20	aid program that is intended to help students pay education-related expenses, including tuition,			
21	fees, room and board, and supplies for education; and			
22	(6) The total percentage of institutional income that comes from any public funding			
23	sources."			
24	COST RECOVERY			
25	14. Section 125.3 of the Business and Professions Code provides, in pertinent part, that			
26	the Board may request the administrative law judge to direct a licentiate found to have committed			
27	a violation of violations of the licensing act to pay a sum not to exceed the reasonable costs of the			
28	investigation and enforcement of the case, with failure of the licentiate to comply subjecting the			
	7			
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION			

license to not being renewed or reinstated. If a case settles, recovery of investigation and
 enforcement costs may be included in a stipulated settlement.
 15. Section 94937 of the Code provides, in pertinent part, that the Bureau may seek

reimbursement costs of investigation and enforcement pursuant to section 125.3 of the Business
and Professions Code but that an institution shall not be required to pay the cost of investigation
to more than one agency.

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FACTUAL BACKGROUND

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 Bureau approved Respondent's Approval to Operate an Institution at 11631 Victory Blvd, Ste 11 205, North Hollywood, CA 91606. Respondent's owner, Rene Aguero (Aguero), reported that 12 Respondent was an individually owned; sole proprietorship and he had 100% ownership of 13 14 Respondent. Aguero reported that his Federal Identification Number was XX-XXX336. On or about February 2, 2013, Respondent notified the Bureau of their change of 17. 15 location to 6444 Bellingham Ave, Ste 201 and 202, North Hollywood, CA 91605. 16

17

Bell Branch, School Code #72482287

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

23

Tujunga Branch, School Code #78788747

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

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1	20. On or about November 6, 2017, the Bureau received notification from Respondent to				
2	close their Tujunga location.				
3	Renewal to Operate				
4	21. On or about April 10, 2017, the Bureau received Respondent's Renewal for Approval				
5	to Operate and Offer Educational Programs for Non-Accredited Institution Application. Aguero				
6	reported that Respondent was individually owned; sole proprietorship and he had 100%				
7	ownership of Respondent.				
8	22. On or about June 28, 2018, the Bureau received a revised Renewal for Approval to				
9	Operate an Institution Application form. Aguero reported that Respondent was a Limited Liability				
10	Corporation as of October 2017. Aguero reported that his Federal Identification Number was still				
11	XX-XXXX336, and he was 100% owner. No other new information was reported by Aguero.				
12	FIRST CAUSE FOR DISCIPLINE				
13	(Fee Schedule)				
14	23. Respondent is subject to disciplinary action under Code sections 94930.5, subdivision				
15	(d)(1)(A)(B) and 94897, subdivision (j)(3) in conjunction with Title 5 of the California Code of				
16	Regulations, sections 74000 and 74006, and Code section in that Respondent underreported gross				
17	revenue for the fiscal years 2014, 2015, 2016, and 2017, and thereby failed to remit the proper				
18	licensing fees to the Bureau. The circumstances are as follows:				
19	24. On or about April 2, 2015, Respondent reported that for fiscal year 2014 its annual				
20	gross revenue was \$213,300. Based on the formula for remittance of annual fees, Respondent				
21	paid the Bureau \$3,600. However, Respondent's financial statements for fiscal year 2014 report a				
22	gross revenue from student fees of \$693,000. Based on the formula for remittance of annual fees,				
23	Respondent should have paid approximately \$7,200 to the Bureau.				
24	25. On or about February 18, 2016, Respondent reported that for fiscal year 2015 its				
25	annual gross revenue was \$530,600. Based on the formula for remittance of annual fees,				
26	Respondent paid the Bureau \$5,975. However, Respondent's financial statements for fiscal year				
27	2015 report a gross revenue from student fees of \$718,300. Based on the formula for remittance				
28	of annual fees, Respondent should have paid approximately \$7,390 to the Bureau.				
	9				
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION				

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1	26. On or about June 26, 2017, Respondent reported that for fiscal year 2016 its annual				
2	gross revenue was \$632,000. Based on the formula for remittance of annual fees, Respondent				
3	paid the Bureau \$2,500. However, Respondent's financial statements for fiscal year 2016 report a				
4	gross revenue of \$674,000. In addition, five insurance carriers reported that for fiscal year 2016				
5	they paid Respondent \$1,376,827 in Supplemental Job Displacement Benefits. Based on the				
6	formula for remittance of annual fees, Respondent should have paid approximately \$6,200 to the				
7	Bureau.				
8	27. On or about February 28, 2018, Respondent reported that for fiscal year 2017 their				
9	annual gross revenue was \$630,000. Based on the formula for remittance of annual fees,				
10	Respondent paid the Bureau \$2,835. However, five insurance carriers reported that for fiscal year				
11	2017 they paid Respondent \$2,101,676 in Supplemental Job Displacement Benefits. Based on the				
12	formula for remittance of annual fees, Respondent should have paid approximately \$9,458 to the				
13	Bureau.				
14	28. Complaint refers to, and by this reference incorporates paragraphs 17 through 24 as				
15	though set forth in full.				
16	SECOND CAUSE FOR DISCIPLINE				
17	(Substantive Changes to Approval to Operate)				
18	29. Respondent is subject to disciplinary action under Code sections 94893 and 94894,				
19	subdivisions (b), (c) and (d), in conjunction with Title 5 of the California Code of Regulations,				
20	section 71640, subdivisions (a)-(d), in that Respondent failed to submit an Application for				
21	Change in Ownership, Control or Business Authorization Form to seek approval for substantive				
22	changes. The circumstances are as follows:				
23	30. Respondent failed to notify the Bureau that the Bell branch was operating as a limited				
24	liability corporation and was requesting and receiving payments under a unique tax identification				
25	number.				
26	31. Respondent failed to notify the Bureau that the Tujunga branch was operating as a				
27	limited liability corporation and was requesting and receiving payments under a unique tax				
28					
	10				
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION				

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;			
	11			
	(COMPUTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION			

1	2.	2. Ordering Rene Aguero to pay the Bureau for Private Postsecondary Education the		
2	reasonable	costs of the investigat	tion and enforcement of this case, pursuant to Business and	
3	Professions Code section 125.3; and,			
4	3. Taking such other and further action as deemed necessary and proper.			
5				
6				
7		"2/4/2020"	"Original signature on file"	
8	DATED:		DR. MICHAEL MARION, JR.	
9			Chief Bureau for Private Postsecondary Education	
10			Department of Consumer Affairs State of California	
11			Complainant	
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		(COMP	UTER INSTITUTE OF TECHNOLOGY, RENE AGUERO) ACCUSATION	