

Bureau for Private Postsecondary Education 2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833 P.O. Box 980818, West Sacramento, CA 95798-0818 P (916) 431-6959 F (916) 263-1897 www.bppe.ca.gov



CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Nicholas James Coding House Institute 2995 Woodside Rd. # 400 Woodside, CA 94062

INSTITUTION CODE: Unapproved CITATION NUMBER: 1617026 CITATION ISSUANCE/SERVICE DATE: NOVEMBER 4, 2016 DUE DATE: DECEMBER 5, 2016 FINE AMOUNT: \$ 50,000.00 ORDER OF ABATEMENT INCLUDED: YES

Elainea Shotwell issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Enforcement Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

<u>CITATION</u>

A Citation is hereby issued to Nicholas James (James), owner of Coding House Institute (CHI), located at of 2995 Woodside Road Suite 400, Woodside, CA 94602 pursuant to Business and Professions Code section 125.9 and 149; California Education Code (CEC) section 94944; and Title 5 of the California Code of Regulations (5 CCR) section 75020 for the violation(s) described below.

BACKGROUND

On April 18, 2014, the Bureau received CHI's Application for Approval to Operate an Institution Non-Accredited signed by Nicolas James.

On June 3, 2015, the Bureau issued James, owner of CHI, a Notice of Denial of Application for Approval to Operate. The Bureau's denial was based on CHI's failure to submit a current financial statement completed by a licensed Certified Public Accountant (CPA), multiple deficiencies found in the school catalog and enrollment agreement, and CHI's noncompliance with record maintenance policies. On July 17, 2015, the Bureau received an appeal for the denial of the approval to operate an institution non-accredited. On November 12, 2015, the Bureau filed a Statement of Issues (SOI) against CHI. The hearing regarding the denial of CHI's application for approval to operate is scheduled for November 14, 2016 to November 16, 2016. The Bureau notified CHI on multiple occasions, (Operating an Educational Institution Without Proper Approval letter, Receipt of Application letter and Notice of Denial of Application for Approval to Operate letter), that CHI did not have an approval to operate and as such was subject to a citation for up to \$50,000.00. CHI

continues to operate by enrolling students into its educational programs and charging the students tuition fees that range from between \$8,000 to \$16,000 as well as a percentage of the student's first year's salary.

The Bureau has also received complaints and evidence of enrollment from students that attended or are currently in attendance at CHI. CHI has continued to mislead students into believing the institution is approved by the Bureau by charging students a Student Tuition Recovery Fund (STRF) Assessment Fee and by providing students with School Performance Fact Sheets (SPFS).

Based on the findings of the Bureau's investigation, a citation for unlicensed activity is warranted and a First Amended SOI was issued on June 23, 2016 to include the unlicensed activity violation.

The Bureau found that CHI was operating from residential locations in Fremont and Pleasanton. When it was discovered and reported that CHI was operating a school and boarding house, in violation of city ordinances, CHI would move to another location. CHI was issued zoning violations by the cities of Fremont and Pleasanton.

VIOLATION(S)

#	The California Education Code (CEC), Title 5 of the California Code of Regulations (5 CCR), and Business and Professions Code (B&P). Below you will find the code section(s) of law you are charged with violating.
1.	Violation: CEC section 94886. Approval to Operate Required "Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter."
	CEC section 94817.5 Approved to Operate or Approved "Approved to operate" or "approved" means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs."
	CEC section 94868 To Offer to the Public "To offer to the public" means to advertise, publicize, solicit, or recruit."
	CEC section 94869 To Operate "To operate" means to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided."
	CEC section 94858 Private Postsecondary Educational Institution "Private postsecondary educational institution" means a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge.
	CEC section 94857 Postsecondary Education "Postsecondary education" means a formal institutional educational program whose curriculum is designed primarily for students who have completed or terminated their secondary education or are

beyond the compulsory age of secondary education, including programs whose purpose is academic, vocational, or continuing professional education.

On April 18, 2014, the Bureau received CHI's Application for Approval to Operate an Institution Non-Accredited.

On October 6, 2014, the Bureau commenced an investigation on CHI based on the receipt of a student complaint.

On February 9, 2015, the Bureau mailed an "Operating Educational Institution without Proper Approval" letter via regular and certified mail to James, owner of CHI. The letter stated the Bureau has evidence that CHI is advertising as a private postsecondary educational institution and offering educational programs that require Bureau approval. The Bureau ordered CHI to cease operations and submit evidence of compliance within 30 days of the date of the letter. Despite the Bureau's order, CHI continued to operate as a private postsecondary educational institution.

On June 3, 2015, the Bureau sent James a Notice of Denial of Application for Approval via regular and certified mail. The Bureau's notice informed James that CHI does not have Bureau approval and is prohibited from operating a private postsecondary institution in California.

Between April 2016 and September 2016, the Bureau received six complaints from students who were enrolled in CHI after the Bureau's denial. The contract agreements submitted by four complainants were for a Full Immersion Boot Camp program that cost between \$8,000 to \$16,000 as well as a percentage of the student's first year's salary.

In May, 2016, CHI provided the Bureau a SPFS with supporting data that indicated 54 students were enrolled at CHI between June 8, 2015 and October 26, 2015. This demonstrates that CHI continued to operate and enroll students even after they were informed to discontinue offering educational programs.

Through the investigation the Bureau found that CHI was operating from the following locations:

- 46684 Windmill Drive, Fremont, CA 94539, (property vacated February 2016)
- 349 Harvard Commons, Fremont, CA 94539 (property vacated July 2016).
- 3381 East Ruby Hill Drive, Pleasanton, CA 94566.

CHI advertises a Full Immersion Live-In Coding Boot Camp program on its website at <u>https://codinghouse.co/#!home</u>. The listed payment options for this program vary from \$18,000 if the student pays upfront to \$4,000 with 22% of the student's first year's salary. CHI also maintains a Facebook page at <u>https://www.facebook.com/codinghouse.co</u> that lists telephone number (650) 853-8000 and an address of 2995 Woodside Road Suite 400, Woodside, CA 94602.

Despite the Bureau's requests for compliance and/or to cease operations as a private postsecondary educational institution, James, the owner of CHI, has ignored the Bureau and knowingly continues to operate without approval.

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The Bureau orders that Nicolas James, owner of CHI, cease to operate as a private postsecondary educational institution. CHI must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media (including Internet web sites), until such time as an approval to operate is obtained from the Bureau. CHI must disconnect all telephone service numbers until such time as an approval to operate is obtained from the Bureau. To comply with the Order of Abatement, CHI must submit a school closure plan to the Bureau pursuant to California Education Code section 94926.

The Bureau orders that CHI provide the Bureau with a roster of all students that have enrolled at Coding House Institute since January 1, 2010. The roster shall include the name, address, telephone number, email address, the name of the program in which the student was enrolled, the date the student enrolled, the date the student left or completed the program, the amount of tuition charged and collected from the student verification that the student received a refund. Make full refunds to the students. Evidence of compliance shall be submitted within 30 days of the issuance of the citation.

<u>Assessment of Fine</u> The fine for this violation is <u>\$50,000.00</u>

2. Violation:

CEC section 94897(j)(3). Prohibited Business Practices

"An institution shall not do any of the following:

(j) In any manner make an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information, including any of the following:
(3) Any other record or document required by this chapter or by the bureau."

B&P section 17500. False and Misleading Statements

"It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor

punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine. "

On its webpage at <u>https://codinghouse.co/#!fees?faq=what-are-the-outcomes-of-past-students</u>, CHI advertises, "95% of our students got a job within 2 months of graduating the boot camp." CHI provided data that demonstrates, of the 70 students who graduated between June 2014 and February 2016, only 57 of the students reported employment and salary information. CHI's statement of 95% of students obtaining is overstated or the data reported in the SPFS is not accurate.

On its webpage at <u>https://codinghouse.co/#!partners</u>, under the heading "WHERE OUR GRADUATES WORK NOW," CHI advertises 21 companies. The data provided by CHI does not support the claims that its graduates work for the listed companies. The website also advertises "partner companies" that offer employment to graduates of CHI. In a May 10, 2016 email to the Bureau, James admitted that the "partner companies" offer guest workshops and tours to students of CHI, and that some of the "partner companies" hire CHI graduates. A review of the 70 graduates information provided by CHI, only two graduates were hired by the "partner company".

Order of Abatement:

The Bureau orders that Nicolas James, owner of CHI, cease to operate as a private postsecondary educational institution. CHI must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media (including Internet web sites), until such time as an approval to operate is obtained from the Bureau. CHI must disconnect all telephone service numbers until such time as an approval to operate is obtained from the Bureau. To comply with the Order of Abatement, CHI must submit a school closure plan to the Bureau pursuant to California Education Code section 94926.

The Bureau orders that CHI provide the Bureau with a roster of all students that have enrolled at CHI since January 1, 2010. The roster shall include the name, address, telephone number, email address, the name of the program in which the student was enrolled, the date the student enrolled, the date the student left or completed the program, the amount of tuition charged and collected from the student verification that the student received a refund. Make full refunds to the students. Evidence of compliance shall be submitted within 30 days of the issuance of the citation.

<u>Assessment of Fine</u> The fine for this violation is <u>\$0.00</u>

3. Violation:

CEC section 94897(m). Prohibited Business Practices

"An institution shall not do any of the following:

(m) Direct any individual to perform an act that violates this chapter, to refrain from reporting unlawful conduct to the bureau or another government agency, or to engage in any unfair act to persuade a student not to complain to the bureau or another government agency."

In April 2016, CHI offered a 30% discount on tuition to students who sign a document titled

	"Discount and Guarantee of Service" which states that all claims, complaints, and suits against CHI have been satisfied or retracted. The document further prohibits students from disclosing any information regarding the document or negotiations between CHI and the students.
	The Bureau received information from students that in September 2016, James required all students to sign a contract agreement that contains language prohibiting them from publicly or privately disparaging CHI. Students were required to waive their rights to voice any negative opinions about CHI. Students were also warned that if any leaked information was traced back to a student, all students would be held liable.
×	Order of Abatement: The Bureau orders that Nicolas James, owner of CHI, cease to operate as a private postsecondary educational institution. CHI must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media (including Internet web sites), until such time as an approval to operate is obtained from the Bureau. CHI must disconnect all telephone service numbers until such time as an approval to operate is obtained from the Bureau. To comply with the Order of Abatement, CHI must submit a school closure plan to the Bureau pursuant to California Education Code section 94926.
	The Bureau orders that CHI provide the Bureau with a roster of all students that have enrolled at Coding House Institute since January 1, 2010. The roster shall include the name, address, telephone number, email address, the name of the program in which the student was enrolled, the date the student enrolled, the date the student left or completed the program, the amount of tuition charged and collected from the student verification that the student received a refund. Make full refunds to the students. Evidence of compliance shall be submitted within 30 days of the issuance of the citation.
	<u>Assessment of Fine</u> The fine for this violation is <u>\$0.00</u>
4.	Violation: B&P 17500. False and Misleading Statements "It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate
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or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine. "

CHI's Full Immersion Boot Camp Agreement contains the verbatim disclosures required by 5 CCR 76215 for qualifying institutions. The contract agreement indicated that the STRF fee is collected for students "enrolled in a residency program attending certain schools regulated by the Bureau for Private Postsecondary and Vocational Education." In the complaint received by the Bureau on June 21, 2016 and interview on June 27, 2016, the complainant stated that based on this language, she thought that CHI was approved by the Bureau which led her to sign up for CHI's Boot Camp program.

Order of Abatement:

The Bureau orders that Nicolas James, owner of CHI, cease to operate as a private postsecondary educational institution. CHI must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media (including Internet web sites), until such time as an approval to operate is obtained from the Bureau. CHI must disconnect all telephone service numbers until such time as an approval to operate is obtained from the Bureau. To comply with the Order of Abatement, CHI must submit a school closure plan to the Bureau pursuant to California Education Code section 94926.

The Bureau orders that CHI provide the Bureau with a roster of all students that have enrolled at Coding House Institute since January 1, 2010. The roster shall include the name, address, telephone number, email address, the name of the program in which the student was enrolled, the date the student enrolled, the date the student left or completed the program, the amount of tuition charged and collected from the student verification that the student received a refund. Make full refunds to the students. Evidence of compliance shall be submitted within 30 days of the issuance of the citation.

The Bureau orders that CHI remove any references to the Bureau and STRF until such time that an approval to operate has been obtained from the Bureau. Submit evidence of compliance to the Bureau.

<u>Assessment of Fine</u> The fine for this violation is <u>\$0.00</u>

5. Violation:

5 CCR section 76120(a). Amount of STRF Assessment

"(a) Each qualifying institution shall collect an assessment of zero dollars (\$0) per one thousand dollars (\$1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars (\$1,000) or less, the assessment is zero dollars (\$0)."

5 CCR section 76130(a),(b)(1), (2) (3) & (4). Collection and Submission of Assessments "(a) A qualifying institution shall collect the assessment from each student in an educational program at the time it collects the first payment from or on behalf of the student at or after enrollment. The assessment shall be collected for the entire period of enrollment, regardless of whether the student pays the institutional charges in increments.

(b) A qualifying institution shall complete the STRF Assessment Reporting Form (Rev. 2/10) and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:

(1) April 30 for the first quarter,

(2) July 31 for the second quarter,

(3) October 31 for the third quarter, and

(4) January 31 for the fourth quarter. If the due date falls on a Saturday, Sunday or State or f ederal holiday, the due date shall be extended to the next regular business day for the Bureau.

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

CHI's template Full Immersion Boot Camp Agreement lists a non-refundable STRF fee of \$8.50 as part of the total fee charged to the students. The \$8.50 STRF fee is regardless of the payment option or when the student is enrolled, both of which directly affect the total institutional charge and the STRF assessment rate.

According to Full Immersion Boot Camp Agreement for the complainant who was enrolled in December 2015, the complainant was required to pay a non-refundable STRF fee of \$8.50 prior to the start of the program. However, effective January 1, 2015, the STRF assessment rate was reduced to zero (\$0) per \$1,000. If CHI is approved by the Bureau to operate, the total STRF fee assessed on the complainant should have been \$0.

CHI is not approved by the Bureau to operate as a private postsecondary educational institution and should not have collected any STRF fees from its students. Furthermore, CHI has not remitted any STRF Assessment Reporting Forms or STRF to the Bureau.

Order of Abatement:

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6.	Violation: B&P section 17500. False and Misleading Statements "It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine. "
	CEC section 94898(b)(1). Merging Classes, Converting Method of Delivery, Changing Locations "(b) After a student has enrolled in an educational program, the institution shall not do either of the following:
	(1) Make any unscheduled suspension of any class unless caused by circumstances beyond the institution's control."
	CHI's website, <u>https://codinghouse.co/#!full-immersion</u> , advertises that the length of the Full Immersion Boot Camp program is 14 weeks.
	The Full Immersion Boot Camp Agreement that was electronically signed by James and the complainant indicates that the program began on February 22, 2016 and terminated on May 27, 2016. Additionally, the Use License agreement states that the complainant was allowed to use CHI's premises 24 hours a day, 7 days a week. The term of the Use License agreement was from February 22, 2016 to May 27, 2016.
	James suspended two days of instruction (on April 8, 2016 and April 9, 2016) to relocate CHI from at

46684 Windmill Drive, Fremont, CA 94539 and 394 Harvard Commons, Fremont, CA 94539.

On April 20, 2016, James notified the students that the last day to move out is May 26, 2016, which is one day prior to end dates on the Use License Agreement and Full Immersion Boot Camp Agreement.

According to the complainant, she and other students were forced to move out to make room for the next cohort on May 26, 2016. Many students, especially the students from other states or countries, had nowhere to go or any place to live as they had not planned to leave before the end of their contract agreements with CHI. The complainant also stated that due to suspension of classes and having to move out early, she and other students did not have sufficient time to complete the last project that were part of the program curriculum.

The actual end dates and length of the program are contrary to what are advertised on CHI's website and contract agreements.

Order of Abatement:

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The Bureau orders that CHI provide the Bureau with a roster of all students that have enrolled at Coding House Institute since January 1, 2010. The roster shall include the name, address, telephone number, email address, the name of the program in which the student was enrolled, the date the student enrolled, the date the student left or completed the program, the amount of tuition charged and collected from the student verification that the student received a refund. Make full refunds to the students. Evidence of compliance shall be submitted within 30 days of the issuance of the citation.

Assessment of Fine

The fine for this violation is $\underline{\$0.00}$

TOTAL ADMINISTRATIVE FINE DUE: \$50,000.00

ASSESSMENT OF A FINE

In accordance with CEC section 94944; and 5 CCR section 75020(b), the Bureau hereby orders this assessment of a fine in the amount of **\$50,000.00** for the violations described above. **Payment must be made, to the Bureau, within** <u>**30 days from the date of service of the Citation.**</u>

ORDER OF ABATEMENT

In accordance with the provisions of 5 CCR section 75020 (b) the Bureau hereby issues the order(s) of abatement described above. In accordance with Business and Professions Code Section 149, the Bureau may disconnect any telephone service numbers used by an unapproved Institution. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within <u>30 days</u> from the date of service of the Citation.**

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within <u>30 days</u> from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **DECEMBER 5, 2016,** you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **NOVEMBER 4, 2016.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **DECEMBER 5, 2016**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Ben Graber, Discipline Citation Program Bureau for Private Postsecondary Education 2535 Capitol Oaks Drive, Suite 400 Sacramento, CA 95833

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Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Ben Graber, Enforcement Analyst, at 916-576-2409 or <u>Benjamin.graber@dca.ca.gov</u>.

Elainea Shøtwell Enforcement Manager

Enclosures

- > Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine Waiver of Appeal
- > Declaration of Service by Certified and First Class Mail