

DEFENSIVE DRIVING BOARD

Meeting Agenda - Thursday, August 20, 2020

Arizona Supreme Court -1501 West Washington Street

Phoenix, Arizona 85007 –10:00 AM– Conference Room 109

General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration, Code Section 1-202(C).

CALL TO ORDER..... *Honorable Maria Brewer, Chair*

1) REVIEW AND APPROVAL OF MINUTES..... *Honorable Maria Brewer, Chair*

1-A: Review, discussion and possible action regarding the regular session minutes for the meeting of April 16, 2020.

2) PENDING COMPLAINTS.....*Division Staff*

2-A: Review, discussion and possible action regarding complaint number 18-D031 concerning certificate holder Defensive Driving School of Arizona (#089).

2-B: Review, discussion and possible action regarding complaint number 18-D032 concerning certificate holder National Traffic Safety Institute (#011).

2-C: Review, discussion and possible action regarding complaint number 18-D014 concerning certificate holder Arizona Defensive Driving School (#058).

2-D: Review, discussion and possible action regarding complaint numbers 19-D005 through 19-D026 concerning school numbers 058, 089, 094, 095, 403, 405, 406, 410, 414, 419, 420, 453, 455, 464, 465, 467, 468, 469, 497, 501, and 509.

2-E: Review, discussion and possible action regarding complaint number 19-D027 through 19-D033 concerning school numbers 083, 531, 055, 433, 492, 432, and 491.

2-F: Review, discussion and possible action regarding complaint number 19-D034 through 19-D037 concerning school numbers 066, 434, 540, and 537.

2-G: Update regarding the status of pending complaints.

3) INITIAL CERTIFICATION AND ELIGIBILITY.....Division Staff

3-A: *Review, discussion and possible action regarding pending application for initial defensive driving instructor certification for the following applicants:*

- 1.Gregory Helseth
- 2.Sinencia Villanueva
- 3.Erika Johnson

4) RENEWAL CERTIFICATION APPLICATIONS.....Division Staff

4-A: *Review, discussion and possible action regarding pending renewal application for the following applicants:*

- 1.Acosta, Mari Crus
- 2.Aronson, Albert
- 3.Clark, Stacy
- 4.Freeman III, Jesse
- 5.Harder, Dennis

5) CERTIFICATION AND ELIGIBILITY..... Division Staff

5-A: *Review, discussion and possible action regarding request for school name changes for the following defensive driving schools:*

1. Avoid the Points Defensive Driving, School #413
2. Too Fast! Defensive Driving, School #466
3. Safety First Defensive Driving, School #498
4. Slow Down! Traffic School, School #500
5. Why Wait Traffic School, School #510
6. Slow It Down Traffic School, School #511

CALL TO THE PUBLIC.....Honorable Maria Brewer, Chair

ADJOURN.....Honorable Maria Brewer, Chair

DEFENSIVE DRIVING BOARD
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1) REVIEW AND APPROVAL OF MINUTES

1-A: Review, discussion and possible action regarding the regular session minutes for the meeting of April 16, 2020.

Regular session minutes of the April 16, 2020 meeting are presented for the Board's review and approval.

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2) PENDING COMPLAINTS

2-A: Review, discussion and possible action regarding complaint number 18-D031 concerning certificate holder Defensive Driving School of Arizona (#089).

On October 8, 2018 Pima County Consolidated Court notified the Division Defensive Driving School of Arizona failed to submit payment to Pima County Consolidated Court for a student who completed in July 2017.

In response to the complaint, Defensive Driving School of Arizona stated upon notification the school immediately tried to resolve the outstanding payments and due to technical problems with the portal they were not able to pay for all the students. Further, Defensive Driving School of Arizona indicated it took six calls and over a week to finally resolve the matter and pay the outstanding fees.

Notwithstanding Defensive Driving School of Arizona's complaint about Pima County Consolidated Court, the school's response failed to indicate why it failed to make payments for the students in a timely manner and failed to provide any evidence of attempts to make payments in a timely manner.

Evidence confirms Defensive Driving School of Arizona was late in their submission of fees for a student's completion. Although the school was quick to submit payment once they became aware of the incident, several months had passed since the completion. Allegation 1 is therefore substantiated.

Recommendation:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Defensive Driving School of Arizona (#089) has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 18-D031.

It is further recommended the Board issue a Letter of Concern.

DEFENSIVE DRIVING BOARD

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2) PENDING COMPLAINTS

2-B: Review, discussion and possible action regarding complaint number 18-D032 concerning certificate holder National Traffic Safety Institute (#011).

On October 8, 2018 Pima County Consolidated Court notified the Division National Traffic Safety Institute (“NTSI”) failed to submit payment to Pima County Consolidated Court for multiple student completions.

In response to the complaint, NTSI stated upon notification the school immediately tried to resolve the outstanding payments and due to technical problems with the portal they were not able to pay for all the students. Further, NTSI indicated it took six calls and over a week to finally resolve the matter and pay the outstanding fees.

Notwithstanding NTSI’s complaint about Pima County Consolidated Court, the school’s response failed to indicate why it failed to make payments for the students in a timely manner and failed to provide any evidence of attempts to make payments in a timely manner.

Evidence confirms NTSI was late in their submission of fees for multiple students’ completions. Although the school was quick to submit payment once they became aware of the incident, several months had passed since the students’ completions. Allegation 1 is therefore substantiated.

Recommendation:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding National Traffic Safety Institute (#011) has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 18-D032.

It is recommended the Board issue a Letter of Concern.

DEFENSIVE DRIVING BOARD

Agenda Summary – Thursday August 20, 2020

2)PENDING COMPLAINTS

2-C: Review, discussion and possible action regarding complaint number 18-D014 concerning certificate holder Arizona Defensive Driving School (#058).

Please reference the Investigation Summary and Probable Cause Analysis and Determination Report involving Complaint No. 18-D014 for full details of the investigation.

National Traffic Safety Institute acquired Arizona Defensive Driving School (No. 058) on or about December 14, 2017.

On August 15, 2018, the Certification and Licensing Division (“Division”) received a written complaint against Arizona Defensive Driving School. The Surprise City Court (“City Court”) alleged that Arizona Defensive Driving School failed to timely pay the diversion fee, as required by the Arizona Code of Judicial Administration (“ACJA”).

The subject student successfully completed a defensive driving class on November 21, 2017, but as of the date of the complaint, Arizona Defensive Driving School had not paid the diversion fee. Over the span of several months, City Court staff reached out to Arizona Defensive Driving School to secure the outstanding diversion fee and resolve the matter, but despite City Court staff’s efforts, Arizona Defensive Driving School failed to pay the requisite fee.

After receiving a copy of the complaint, Arizona Defensive Driving School remitted payment of the diversion fee to the City Court on or about August 22, 2018.

The City Court verified that the subject student/defendant did not suffer any consequences as a result of Arizona Defensive Driving School’s failure to timely pay the diversion fee.

Brian Horsley, Principal of Arizona Defensive Driving School, does not dispute that Arizona Defensive Driving School was required to timely pay the court diversion fee after the student completed the defensive driving class and that the school did not timely remit payment of the fee. Mr. Horsley also stated that Arizona Defensive Driving School accepts responsibility for not timely paying the court diversion fee.

However, notwithstanding Mr. Horsley’s statements that Arizona Defensive Driving School accepts responsibility for the transgression, Arizona Defensive Driving School consistently blamed the City Court, and to some extent, the Division, for what Mr. Horsley determined was a failure to follow normal procedures and adhere to universally accepted business administration practices of escalating a conflict. Mr. Horsley, for Arizona Defensive Driving School, criticizes the City Court for its repeated efforts to resolve the matter with the school’s local staff rather than escalating the concern to Arizona Defensive Driving School’s corporate office, National Traffic Safety Institute, prior to the City Court filing the complaint with the Division.

RECOMMENDATION TO THE BOARD (“BOARD”):

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Arizona Defensive Driving School has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 18-D014.

It is further recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6) for act(s) of misconduct involving ACJA §§ 7-205(F)(19) and 7-205(F)(26(f)(2) and A.R.S. § 28-3396 by failing to timely remit diversion fees to a limited jurisdiction court.

It is further recommended the Board issue a Letter of Concern.

DEFENSIVE DRIVING BOARD

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2) PENDING COMPLAINTS

2-D: Review, discussion and possible action regarding complaint numbers 19-D005 through 19-D026 concerning school numbers 058, 089, 094, 095, 403, 405, 406, 410, 414, 419, 420, 453, 455, 464, 465, 467, 468, 469, 497, 501, and 509.

Please reference the Investigation Summary and Probable Cause Analysis and Determination Report involving Complaint Nos. 19-D005 through 19-D026 for full details of the investigation.

On September 30, 2019, the Certification and Licensing Division (“Division”) initiated a Director Initiated Complaint involving the certifications of Defensive Driving School Nos. 058, 089, 094, 095, 403, 405, 406, 410, 414, 419, 420, 453, 455, 464, 465, 467, 468, 469, 497, 501, and 509.

The Complaint contained four (4) allegations:

1. Defensive Driving Schools Nos. 058, 089, 094, 095, 403, 405, 406, 410, 414, 419, 420, 421, 453, 464, 465, 467, 468, 469, 497, 501, and 509 failed to timely provide Surety Bonds of \$20,000.00, as required by code.
2. Defensive Driving Schools Nos. 058, 089, 094, 095, 403, 405, 406, 410, 414, 419, 420, 421, 453, 464, 465, 467, 468, 469, 497, 501, and 509 failed to properly process students through the schools listed, in violation of ACJA §7-205(F)(24)(c)(2).
3. Defensive Driving Schools 403, 405, 414, 453, 455, 464, 465, 467, 468, 469, 497, 501, and 509, failed to timely furnish records involving negative state fee reports.
4. Defensive Driving Schools Nos. 403, 467, 497, and 509 failed to provide student rosters, requested by the Division.

Surety Bond Requirement

In 2019, Arizona Supreme Court Chief Justice Scott Bales, signed Administrative Order 2019-26, involving Administrative Code of Judicial Administration (“ACJA”) §7-205 which finalized and instituted, in part, changes to surety bond requirements for defensive driving schools.

Each defensive driving school was required to purchase a surety bond in the amount of \$20,000.00 (twenty thousand) or an amount equal to the sum of the highest two (2) months during the preceding six (6) months of all state and limited jurisdiction fees collected by the school, whichever is higher.

In the months leading up to the proposed changes to the ACJA and the executed Administrative Order, the Division sent all defensive driving schools in Arizona communications regarding the proposed changes pertinent to surety bond requirements. In addition, on or about March 26, 2019 and April 23, 2019, the Division sent emails to all defensive driving schools in Arizona notifying that the changes to the surety bond requirement would be effective May 1, 2019.

On or about April 29, 2019, the Division received a surety bond in the amount of \$688,641.00 (six

hundred eighty-eight thousand six hundred and forty-one) from School No. 11.

On May 15, 2019, the Division notified Brian Horsley, principal of the defensive driving schools referenced in the complaint, regarding the outstanding surety bonds for the remaining twenty-two (22) driving schools which were due by May 1, 2019. Mr. Horsley was asked to provide a copy of the surety bonds for each of those defensive driving schools by May 22, 2019, with original to follow by mail.

In the months following, there was ongoing correspondence between Mr. Horsley, on behalf of the referenced defensive driving schools, and the Division. Mr. Horsley consistently represented that all the referenced defensive driving schools were compliant with the ACJA and surety bond requirement because of the surety bond payment submitted by School No. 011, received by the Division on April 29, 2019.

Mr. Horsley represented that School No. 011, not a subject of this Complaint, is the sole certification number that is utilized for all financial transactions in Arizona and that School No. 011's surety bond covered all remaining defensive driving school certifications.

In addition, the referenced schools, per Mr. Horsley, claimed that the business practice of making all state and jurisdictional payments across 23 (twenty-three) certifications through School No. 011, was done [emphasis added]:

“In order to streamline operations, ensure prompt and accurate financial transactions, minimize the risk of mistake, missed or late payments, and to reduce a complicated audit trail into one easily verifiable financial stream...”

On or about October 30, 2019, approximately five (5) months after the requisite deadline of May 1, 2019, the referenced defensive driving schools purchased surety bonds and provided proof of such to the Division.

Improperly Processing Students

Mr. Horsley, for the referenced defensive driving schools, does not dispute that defensive driving classes are scheduled according to the respective school certification numbers and that students attend defensive driving classes, as registered. However, completions of the defensive driving classes are done through a single certification number, School No. 011, and are not completed under the certification numbers of the schools which conducted the defensive driving classes.

Negative State Fee Reports/Student Rosters

Division staff requested Negative State Fee Reports for certain classes and requested class/student rosters for certain classes for which Negative State Fee Reports were submitted. The defensive schools referenced in Allegations 3 and 4, submitted the Negative State Fee Reports approximately two (2) months after the Division's requests for those records.

In addition, the referenced defensive driving schools failed to furnish the class/student rosters as requested by the Division.

Recommendations:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Defensive Driving Schools Nos. 058, 089, 094, 095, 403, 405, 406, 410, 414, 419, 420, 421, 453, 455, 464, 465, 467, 468, 469, 497, 501, and 509 have committed the alleged act(s) of misconduct as detailed in Allegations 1 through 6 of the Investigation Summary and Allegation Analysis Report in complaint numbers 19-D005 through 19-D026.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6) for act(s) of misconduct involving the misconduct described in the Investigation Summary and Allegation Analysis Report in complaint numbers 19-D005 through 19-D026.

Mitigating Factors:

1. Absence of a dishonest motive

Aggravating Factors:

1. Multiple offenses
2. Refusal to acknowledge wrongful nature of the conduct
3. Substantial experience in the profession

It is further recommended that the Board issue a Censure to Defensive Driving Schools Nos. 058, 089, 094, 095, 403, 405, 406, 410, 414, 419, 420, 421, 453, 455, 464, 465, 467, 468, 469, 497, 501, and 509 for the school’s misconduct described in the Investigation Summary and Allegation Analysis Report.

DEFENSIVE DRIVING BOARD

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2) PENDING COMPLAINTS

2-E: Review, discussion and possible action regarding complaint number 19-D027 through 19-D033 concerning school numbers 083, 531, 055, 433, 492, 432, and 491.

Please refer to the Investigation Summary and Probable Cause Analysis and Determination Report for full details of the Investigation.

Each of the seven Defensive Driving Schools was assigned an individual Complaint Number (19-D027 through 19-D033).

1. Complaint No. 19 D027 (School No. 083 – Cheaper Easy Fast Arizona)
2. Complaint No. 19-D028 (School No. 531 – Payless Cheap Fast)
3. Complaint No. 19-D029 (School No. 055 – Easy Fast Cheap Arizona)
4. Complaint No. 19-D030 (School No. 433 – Low Price Simple Fun)
5. Complaint No. 19-D031 (School No. 492 – Payless Cheap EZ Fast)
6. Complaint No. 19-D032 (School No. 432 – Easy Payless Fast)
7. Complaint No. 19-D033 (School No. 491 – Payless Cheaper Easy)

In lieu of separate Investigation Summaries, the Certification and Licensing Division (“Division”) submits a single Investigation Summary to present the facts of the investigation involving the seven schools referenced in this Complaint.

On October 2, 2019, the Division received a written complaint containing three allegations:

1. Defensive Driving Schools Nos. 083, 531, 055, 433, 492, 432, and 491 are allowing erroneous, deceptive or misleading advertising by publishing the same customer testimonials on each of their websites.
2. Defensive Driving Schools Nos. 083, 531, 055, 433, 492, 432, and 491 have websites that are not substantially different and contain the same email contact information and blogs on each of their websites.
3. Defensive Driving Schools Nos. 083, 531, 055, 433, 492, 432, and 491 are engaged in price fixing.

The Division’s Investigation did not substantiate Allegations 2 and 3 of the Complaint.

As to Allegation 1 involving defensive driving schools allowing erroneous, deceptive or misleading advertising by publishing the same customer testimonials on each of their respective websites, the Division’s Investigation substantiated the allegation.

Marla Keller, owner of the defensive driving schools referenced in the Complaint, described a process which would lead to customer testimonials being posted for schools when the student/customer providing the testimonial did not attend the school. Ms. Keller told Division staff that the referenced defensive driving schools have been collecting customer testimonials and comments for many years, as early as 2011. The customer comments are received as telephone

messages or via email. Ms. Keller acknowledged that the schools do not keep the recorded telephone messages and do not permanently retain emails.

Ms. Keller replied, “Yeah, it could have been...it’s very possible it was...” when Division staff asked her if the customer comments that appeared on all the schools’ websites were the exact same customer comments.

When the schools refreshed the customer comments webpages, Ms. Keller said, “I just have them post them as the comments. I don’t know if it’s for a specific school, ...so it’s like a big bucket, if you want to say it that way but there’s no actual bucket of comments that people have said over the years about my schools. I didn’t know I had to have specific things like that because it’s not written in the code.” Ms. Keller told Division staff that she could not match the customer comments to a specific defensive driving school stating, “No I can’t, it’s all in one central bucket...”

Ms. Keller said, “In my mind, I’m not thinking well this comment was for School A and this is for School B because it’s all about my schools and there was nothing in the code that specifically stated that I needed to set it up that way. Like everything else, in the past we were able to use the same curriculum for all the schools and then that changed, and it was very specific but as far as the comments page, nothing mentioned in the code at all so I’m kind of flying blind here.”

Customer testimonials are part of the schools’ marketing, publicity, and promotion because customer comments provide, or should provide, valid and empirical feedback regarding an individual’s direct experience with a given school. Used as advertisement and endorsement, customer testimonials can be persuasive and an effective and influential factor in helping the public at large determine whether to select one defensive driving school over another. For those reasons, customer testimonials must be authentic, reliable, and accurate.

ACJA § 7-205(J)(1)(e) bars defensive driving schools from engaging in conduct that is erroneous or deceptive.

ACJA §7-201 (H)(6)(k)(9) establishes that grounds for discipline exists if a defensive driving school “used advertising intended to or having a tendency to deceive the public.”

By arbitrarily assigning customer testimonials to Schools Nos. 083, 531, 055, 433, 492, 432, and 491 without verification that those customer testimonials were appropriate and applicable to the specific schools, the referenced defensive driving schools allowed erroneous, deceptive, or misleading advertising on the schools’ respective websites.

RECOMMENDATIONS TO THE BOARD (“BOARD”):

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Defensive Driving Schools Nos. 083, 531, 055, 433, 492, 432, and 491 have not committed the alleged act(s) of misconduct as detailed in Allegations 2 and 3 of the Investigation Summary and Allegation Analysis Report in complaint numbers 19-D027 through 19-D033.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Defensive Driving Schools Nos. 083, 531, 055, 433, 492, 432, and 491 have committed the alleged act(s) of misconduct as detailed in Allegation 1 of the Investigation Summary and Allegation Analysis Report in complaint numbers 19-D027 through 19-D033.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) §§ 7-201(H)(6)(a) and (k)(9); 7-205(J)(1)(d) and (e) for act(s) of misconduct involving misleading advertising as further described in the Investigation Summary and Allegation Analysis Report

Mitigating Factors:

1. Full and free disclosure to staff
2. Cooperative attitude towards proceedings

Aggravating Factors:

1. Prior disciplinary record
2. Multiple offenses
3. Substantial experience in the industry

It is further recommended that the Board issue a Censure.

DEFENSIVE DRIVING BOARD

Agenda Summary – Thursday August 20, 2020

2)PENDING COMPLAINTS

2-F: Review, discussion and possible action regarding complaint number 19-D034 through 19-D037 concerning school numbers 066, 434,540, and 537.

Please refer to the Investigation Summary and Probable Cause Analysis and Determination Report for full details of the Investigation.

Each of the four Defensive Driving Schools was assigned a separate Complaint Number (19-D034 through 19-D037).

1. Complaint No. 19 D034 (School No. 066 – Cheap Easy Fast Arizona)
2. Complaint No. 19-D035 (School No. 434 – Payless EZ Fast)
3. Complaint No. 19-D036 (School No. 540 – Cheap Lowcost Fast)
4. Complaint No. 19-D037 (School No. 537 – Cheaper Easier Quick)

In lieu of separate Investigation Summaries, the Certification and Licensing Division (“Division”) submits a single Investigation Summary to present the facts of the investigation involving the four schools referenced in this Complaint.

On October 2, 2019, the Division received a written complaint containing three allegations:

1. Defensive Driving Schools Nos. 066, 434, 540, and 537 are allowing erroneous, deceptive or misleading advertising by publishing the same customer testimonials on each of their websites.
2. Defensive Driving Schools Nos. 066, 434, 540, and 537 have websites that are not substantially different and contain the same email contact information and blogs on each of their websites.
3. Defensive Driving Schools Nos. 066, 434, 540, and 537 are engaged in price fixing.

The Division’s Investigation did not substantiate Allegations 2 and 3 of the Complaint.

As to Allegation 1 involving defensive driving schools allowing erroneous, deceptive or misleading advertising by publishing the same customer testimonials on each of their respective websites, the Division’s Investigation substantiated the allegation.

Borna Mozafari, owner of the defensive driving schools referenced in the Complaint, described a process which would lead to testimonials being posted for schools when the student giving the testimonial did not attend the school. Mr. Mozafari told Division staff that the schools have been collecting customer testimonials and comments for many years, as early as 2012. Customer comments are received by telephone calls and messages and/or by email. Mr. Mozafari acknowledge that the schools do not keep any recording of any customer telephone calls and do not permanently retain emails.

When the schools refreshed the customer comments webpages, Mr. Mozafari told Division staff that the customer comments “were in all in one pile” and when he was asked how he matched the

customer names and comments to the respective schools that customers had attended for defensive driving classes, Mr. Mozafari said, “we don’t match them to particular school ...” Mr. Mozafari would not be able to identify which customer went to which school.

The Division reviewed the schools’ websites and noted that customer testimonials appeared to be different except for Schools Nos. 066 and 537 which displayed identical customer testimonials.

In addition, School No. 066’s website features a blog tab which, when accessed, directs the viewer and/or potential customer, to the corporate website, which has a similar name to School No. 066 (both contain the words Cheap Easy Fast). The corporate website also contains customer testimonials and accompanying star ratings. It is possible that a viewer and/or potential customer could infer that the customer testimonials and ratings that appear on the corporate site are associated with School No. 066 because of the name resemblance and because the corporate site is accessed directly via the blog tab on School No. 066’s website.

Customer testimonials are part of the schools’ marketing, publicity, and promotion because customer comments provide, or should provide, valid and empirical feedback regarding an individual’s direct experience with a given school. Used as advertisement and endorsement, customer testimonials can be persuasive and an effective and influential factor in helping the public at large determine whether to select one defensive driving school over another. For those reasons, customer testimonials must be authentic, reliable, and accurate.

ACJA § 7-205(J)(1)(e) bars defensive driving schools from engaging in the in conduct that is erroneous or deceptive.

ACJA §7-201 (H)(6)(k)(9) establishes that grounds for discipline exists if a defensive driving school “used advertising intended to or having a tendency to deceive the public.”

In addition to the issues involving School No. 066’s blog tab linking the corporate site, by arbitrarily assigning customer testimonials to Schools Nos. 066, 434, 540 and 537 without verification that those customer testimonials were appropriate and applicable to the specific schools, the schools referenced in the Complaint, allowed erroneous, deceptive, or misleading advertising on the schools’ respective websites.

RECOMMENDATIONS TO THE BOARD (“BOARD”):

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Defensive Driving Schools Nos. 006, 434, 540, and 537 have not committed the alleged act(s) of misconduct as detailed in Allegations 2 and 3 of the Investigation Summary and Allegation Analysis Report in complaint numbers 19-D034 through 19-D037.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Defensive Driving Schools Nos. 006, 434, 540, and 537 have committed the alleged act(s) of misconduct as detailed in Allegation 1 of the Investigation Summary and Allegation Analysis Report in complaint numbers 19-D034 through 19-D037.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) §§ 7-201(H)(6)(a) and (k)(9); 7-205(J)(1)(d) and (e) for act(s) of misconduct involving misleading advertising as further described in the Investigation Summary and Allegation Analysis Report

Mitigating Factors:

1. Full and free disclosure to staff
2. Cooperative attitude towards proceedings

Aggravating Factors:

1. Prior disciplinary record
2. Multiple offenses
3. Substantial experience in the industry

It is further recommended that the Board issue a Censure.

DEFENSIVE DRIVING BOARD

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2) PENDING COMPLAINTS

2-G: Update regarding the status of pending complaints.

As of August 17, 2020, there are currently 38 open complaints 36 of which have been presented on this agenda with dispositive recommendations under items 2A through 2F.

DEFENSIVE DRIVING COMPLAINTS COURTOOLS MEASURE 4 AGE OF PENDING CASELOAD

Shaded Areas Indicate Cases within Time Standard of 22 Months

Age (Months)	Number Cases	Percent	Cumulative Percent
0-4	0	0%	0%
5-9	1	2%	2%
10-14	33	88%	90%
15-19	0	0%	90%
20-22	3	8%	98%
23-35	1	2%	100%
36-50			
Over 50			
Total	38	100%	100%

DEFENSIVE DRIVING BOARD

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3) INITIAL CERTIFICATION AND ELIGIBILITY

3-A: *Review, discussion and possible action regarding pending application for initial defensive driving instructor certification for the following applicants:*

The following applicants have applied for initial defensive driving instructor certification. The applicants successfully passed the program examination and have submitted completed applications demonstrating that they meet the minimum requirements for initial certification.

It is recommended initial defensive driving instructor certification be granted to the following applicants:

1. Gregory Helseth
2. Sinencia Villanueva

3 Erika Johnson applied for initial defensive driving instructor certification. She successfully passed the program examination and has submitted a complete application demonstrating that she meets the minimum education and experience requirements. Ms. Johnson disclosed a 2015 dissolution of marriage and a 2016 bankruptcy that contained no adversarial proceedings.

Ms. Johnson failed to disclose a 1996 bankruptcy, 1997 dissolution of marriage, 2010 bankruptcy filing, a pair of 2010 civil cases that are related to debt in which she is listed as a defendant and a 2016 civil case related to debt that was suspended due to her 2016 bankruptcy.

Ms. Johnson thought she had read in the application that she only had to disclose cases within a certain period (referencing the last 5-6 years) and was not trying to hide any information from the Board. Ms. Johnson further stated that the 2010 bankruptcy was filed but not discharged and she did not disclose the 2016 civil case because it was included and disclosed in the 2016 bankruptcy.

The Division recommends approval of defensive driving instructor certification for Erika Johnson with the standard non-disclosure language.

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4) RENEWAL CERTIFICATION APPLICATIONS

4-A: Review, discussion and possible action regarding pending renewal application for the following applicants:

The following applicants applied for renewal of their certifications. Division received their applications and performed background checks. The board required we select for audit, everyone who did not attend the training conferences put on by the Division. All of the following were picked in that Continuing Education (“CE”) audit and were required to provide Division staff with their completed CE.

Division staff sent out audit requests by email on October 23, 2019. A second request was emailed on December 17, 2019. The third audit request for CE was sent via US mail on January 13, 2020 to the certificate holder’s physical address on file with the Division.

Pursuant to ACJA §7-205(G), Conduct, in conjunction with the schools, three hours of continuing education for instructors every calendar year in the two-year renewal cycle for a total of six hours.

It is recommended renewal of certification be denied for the following individuals pursuant to Code § 7-201(E)(2)(c)(2)(b)(xvi) for failure to respond or furnish information to Division staff or the Board when the information is legally requested and is in the applicant’s control or is reasonably available to the applicant and pertains to certification or investigative inquiries:

- | | |
|-----------------------|--------------------|
| 1. Mari Crus Acosta | Certificate #40996 |
| 2. Albert Aronson | Certificate #40913 |
| 3. Stacy Clark | Certificate #41067 |
| 4. Jesse Freeman, III | Certificate #40917 |

5 Dennis Harder applied for renewal of his certification. Division received his application and performed a background check. Mr. Harder was certified on October 20, 2016.

Mr. Harder owes three CE credits for 2017 and 2018. He submitted timely 2017 credits, but did not submit any 2018 CE credits, then submitted 14 hours of credits for 2019.

It is recommended that the board accept three of his untimely 2019 CE credit hours including using the two hours of ethics for 2017 and 2018 and Dennis Harder’s certification be renewed with CE remedial actions as stated below.

CE Remedial Actions:

- Pay a \$50 fee for late CE

- Make up his deficiency within 90 days, which he has done with board approval.
- Submit CE annually
 - for the 2019 calendar year, on or before January 31, 2020, which he has already done for 2019.
 - for the 2020 calendar year, on or before January 31, 2021

DEFENSIVE DRIVING BOARD

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5) CERTIFICATION AND ELIGIBILITY

5A: Review, discussion and possible action regarding request for school name changes for several defensive driving schools:

1. Avoid the Points Defensive Driving, School #413, submitted a request to change the school's name on May 19, 2020.

The proposed name for the school is Defensive Driving for Responsible Drivers.

The Division has received the necessary documentation and recommends the Board approve the requested name change from Avoid the Points Defensive Driving to Defensive Driving for Responsible Drivers.

2. Too Fast! Defensive Driving, School #466, submitted a request to change the school's name on May 18, 2020.

The proposed name for the school is Defensive Driving: How to Drive Safer.

The Division has received the necessary documentation and recommends the Board approve the requested name change from Too Fast! Defensive Driving to Defensive Driving: How to Drive Safer.

3. Safety First Defensive Driving, School #498, submitted a request to change the school's name on May 19, 2020.

The proposed name for the school is Arizonans for Better Driving.

The Division has received the necessary documentation and recommends the Board approve the requested name change from Safety First Defensive Driving to Arizonans For Better Driving.

4. Slow Down! Traffic School, School #500, submitted a request to change the school's name on May 19, 2020.

The proposed name for the school is Defensible Driving Techniques for Arizonans.

The Division has received the necessary documentation and recommends the Board approve the requested name change from Slow Down! Traffic School to Defensible Driving Techniques for Arizonans.

5. Why Wait Traffic School, School #510, submitted a request to change the school's name on May 19, 2020.

The proposed name for the school is Defending Arizona Drivers.

The Division has received the necessary documentation and recommends the Board approve the requested name change from Why Wait Traffic School to Defending Arizona Drivers.

6. Slow It Down Traffic School, School #511, submitted a request to change the school's name on May 19, 2020.

The proposed name for the school is Arizona Academy of Responsible Driver.

The Division has received the necessary documentation and recommends the Board approve the requested name change from Slow It Down Traffic School to Arizona Academy of Responsible Drivers.