

**BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation Against:

AMERICAN BEAUTY INSTITUTE LLC, dba AMERICAN BEAUTY INSTITUTE

4625 Convoy Street, Ste A

San Diego, CA 92111

Institution Code: 81663192

Case No.: 1003292

OAH Case No.: 2023050445

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on January 5, 2024.

It is so ORDERED October 26, 2023.

"Original Signature on File"

RYAN MARCROFT

Deputy Director, Legal Affairs Division
Department of Consumer Affairs

1 ROB BONTA
Attorney General of California
2 MARICHELE S. TAHIMIC
Supervising Deputy Attorney General
3 DIONNE MOCHON
Deputy Attorney General
4 State Bar No. 203092
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9012
7 Facsimile: (619) 645-2061
E-mail: Dionne.Mochon@doj.ca.gov
8 *Attorneys for Complainant*

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

13
14 In the Matter of the Petition to Revoke
Probation Against:

15 **AMERICAN BEAUTY INSTITUTE LLC,**
16 **DBA AMERICAN BEAUTY INSTITUTE**
17 **4625 Convoy Street, Ste. A**
San Diego, CA 92111

18 **Approval to Operate an Institution Non-**
19 **Accredited No. Institution Code 81663192**

20 Respondent.

Case No. 1003292

OAH No. 2023050445

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Deborah Cochran (Complainant) is the Chief of the Bureau for Private
26 Postsecondary Education (Bureau). She brought this action solely in her official capacity and is
27 represented in this matter by Rob Bonta, Attorney General of the State of California, by Dionne
28 Mochon, Deputy Attorney General.

1 2. Respondent American Beauty Institute LLC, dba American Beauty Institute
2 (Respondent) is represented in this proceeding by attorney James C. Stevens, Esq., whose address
3 is 402 West Broadway, Suite 400, San Diego, California.

4 3. On or about October 28, 2015, the Bureau issued Approval to Operate an Institution
5 Non-Accredited, School Code Number 81663192, to American Beauty Institute LLC, dba
6 American Beauty Institute (Respondent). The Approval to Operate an Institution Non-Accredited
7 was set to expire on October 27, 2020. On or about July 15, 2020, Respondent filed an
8 application with the Bureau to obtain a Renewal of the Approval to Operate and Offer
9 Educational Programs for Non-Accredited Institutions. The Bureau denied the application on
10 September 30, 2022.

11 **JURISDICTION**

12 4. Petition to Revoke Probation No. 1003292 was filed before the Director of the
13 Department of Consumer Affairs (Director), and is currently pending against Respondent. The
14 Petition to Revoke Probation and all other statutorily required documents were properly served on
15 Respondent on August 15, 2023. Respondent timely filed its Notice of Defense contesting the
16 Petition to Revoke Probation.

17 5. A copy of Petition to Revoke Probation No. 1003292 is attached as Exhibit A and
18 incorporated herein by reference.

19 **ADVISEMENT AND WAIVERS**

20 6. Respondent has carefully read, fully discussed with counsel, and understands the
21 charges and allegations in Petition to Revoke Probation No. 1003292. Respondent has also
22 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
23 Settlement and Disciplinary Order.

24 7. Respondent is fully aware of its legal rights in this matter, including the right to a
25 hearing on the charges and allegations in the Petition to Revoke Probation; the right to confront
26 and cross-examine the witnesses against them; the right to present evidence and to testify on its
27 own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
28 production of documents; the right to reconsideration and court review of an adverse decision;

1 and all other rights accorded by the California Administrative Procedure Act and other applicable
2 laws.

3 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 **CULPABILITY**

6 9. Respondent admits the truth of each and every charge and allegation in Petition to
7 Revoke Probation No. 1003292.

8 10. Respondent agrees that its Approval to Operate an Institution Non-Accredited is
9 subject to discipline and they agree to be bound by the Director's probationary terms as set forth
10 in the Disciplinary Order below.

11 **CONTINGENCY**

12 11. This stipulation shall be subject to approval by the Director or the Director's designee.
13 Respondent understands and agrees that counsel for Complainant and the staff of the Bureau for
14 Private Postsecondary Education may communicate directly with the Director and staff of the
15 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or
16 participation by Respondent or its counsel. By signing the stipulation, Respondent understands
17 and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the
18 time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the
19 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
20 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
21 and the Director shall not be disqualified from further action by having considered this matter.

22 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

25 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 14. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Director may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 15. The Bureau's prior Decision and Order in this case, effective August 15, 2019, and
8 attached as Exhibit B, revoked the Approval to Operate an Institution Non-Accredited issued to
9 American Beauty Institute LLC, dba American Beauty Institute, (Institution Code 81663192), but
10 stayed the revocation and placed Respondent's Approval to Operate on probation for a period of
11 three (3) years with certain terms and conditions. If Respondent had been compliant therewith,
12 absent tolling or extension, that probation would have terminated on or about August 15, 2023.

13 **IT IS HERBY ORDERED** that the probation previously ordered on July 12, 2019, against
14 Respondent's Approval to Operate an Institution Non-Accredited (Institution Code 81663192)
15 shall continue until August 15, 2025, under the same terms and conditions numbered 1-15 as set
16 forth in the Decision and Order attached as Exhibit B, and referenced here as though fully set
17 forth herein.

18 **IT IS FURTHER ORDERED** that probation shall continue on the same terms and
19 conditions if Respondent is granted a subsequent renewal of approval to operate or is granted
20 another Approval to Operate or license regulated by the Bureau during the probationary period.

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ACCEPTANCE


I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, James C. Stevens. I understand the stipulation and the effect it will have on my Approval to Operate an Institution Non-Accredited. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

DATED: 9/28/23


AMERICAN BEAUTY INSTITUTE LLC,
DBA AMERICAN BEAUTY INSTITUTE
Respondent

I have read and fully discussed with Respondent American Beauty Institute LLC, dba American Beauty Institute the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/5/23


JAMES C. STEVENS, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of the Department of Consumer Affairs.

DATED: 10/5/2023

Respectfully submitted,
ROB BONTA
Attorney General of California
MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General

Dionne Mochon

DIONNE MOCHON
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Petition to Revoke Probation No. 1003292

1 ROB BONTA
Attorney General of California
2 CARL W. SONNE
Senior Assistant Attorney General
3 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9435
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

13
14 In the Matter of the Petition to Revoke
Probation Against:

Case No. 1003292

15 **AMERICAN BEAUTY INSTITUTE LLC,**
16 **DBA AMERICAN BEAUTY INSTITUTE**
17 **4625 Convoy Street, Ste. A**
San Diego, CA 92111

PETITION TO REVOKE PROBATION

18 **Approval to Operate an Institution Non-**
19 **Accredited Institution Code No. 81663192**

20 Respondent.

21
22 **PARTIES**

23 1. Deborah Cochrane (Complainant) brings this Petition to Revoke Probation solely in
24 her official capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau),
25 Department of Consumer Affairs.

26 2. On or about October 28, 2015, the Bureau issued Approval to Operate an Institution
27 Non-Accredited Institution Code Number 81663192 to American Beauty Institute LLC, dba
28 American Beauty Institute (Respondent). Respondent is approved to offer educational programs

1 in Barbering (1,500-hour and 1000-hour programs), Cosmetology (1,600-hour and 1,000-hour
2 programs), Esthetician (600 hours), Manicurist (400 hours) and Massage Therapy (600-hour
3 program). The Approval to Operate an Institution Non-Accredited expired on October 27, 2020,
4 however Respondent timely submitted a renewal application, which is currently pending.

5 Therefore, the institution maintains its approval to operate and to offer the educational programs,
6 described above, as of the filing of this Petition to Revoke Probation.

7 3. In a disciplinary action titled "*In the Matter of the Accusation Against American*
8 *Beauty Institute LLC; dba American Beauty Institute*," Case No. 1003292 (Accusation Case No.
9 1003292), the Bureau issued a Decision and Order effective August 15, 2019, in which
10 Respondent's Approval to Operate an Institution Non-Accredited (Approval to Operate) was
11 revoked. However, the revocation was stayed and Respondent's Approval to Operate was placed
12 on probation for three (3) years with certain terms and conditions. A copy of that Decision and
13 Order is attached as Exhibit A and is incorporated by reference.

14 JURISDICTION

15 4. This Petition to Revoke Probation is brought before the Director of the Department of
16 Consumer Affairs (Director) for the Bureau under Probation Term and Condition Number 12 of
17 the Decision and Order. That term and condition states:

18 **12. Violation of Probation.** If Respondent violates probation in any
19 respect, the Bureau, after giving respondent notice and opportunity to be heard, may
20 revoke probation and carry out the disciplinary order which was stayed. If an
21 Accusation or a Petition to Revoke Probation is filed against respondent during
22 probation, the Bureau shall have continuing jurisdiction until the matter is final, and
23 the period of probation shall be extended, and respondent shall comply with all
24 probation conditions, until the matter is final. ...

22 STATUTORY AND REGULATORY PROVISIONS

23 5. Section 94932 of the Education Code (Code) states:

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

1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Obey All Laws – Failure to Report Licensing Agency Investigation)**

3 8. At all times after the effective date of Respondent's probation, Condition 1 stated:

4 **1. Obey All Laws.** Respondent shall obey all federal, state and local laws
5 and regulations governing the operation of a private postsecondary educational
6 institution in California. Respondent shall submit, in writing, a full detailed account
7 of any and all violations of the law to the Bureau within five (5) days of discovery. ...

8 9. Respondent's probation is subject to revocation because it failed to comply with
9 Probation Condition 1, in conjunction with Code section 94934.5, in that Respondent failed to
10 report that it was being investigated by the Board of Barbering and Cosmetology (BBC). The
11 facts and circumstances regarding this violation are as follows.

12 10. On or about March 10, 2022, BBC conducted a Directed School Inspection of
13 Respondent, during which violations were found. Respondent submitted a First Quarterly Report
14 for the period January 1, 2022 through March 31, 2022, which was received by the Bureau on
15 April 4, 2022, that did not report BBC's investigation of the school. Respondent submitted a
16 Second Quarterly Report for the period April 1, 2022 through June 30, 2022, received by the
17 Bureau on July 10, 2022. The Second Quarterly Report also did not report BBC's investigation
18 of the school. Respondent failed to report BBC's investigation of the school to the Bureau in
19 violation of Term 1 of its Probation.

20 **SECOND CAUSE TO REVOKE PROBATION**

21 **(Obey All Laws – Financial Resources)**

22 11. Respondent's probation is subject to revocation because it failed to comply with
23 Probation Condition 1, referenced above, in conjunction with Regulation 71745, subdivisions
24 (a)(3) and (a)(6), in that Respondent failed to maintain minimum operating standards by failing to
25 maintain a ratio of current assets to current liabilities of 1.25 to 1.00, or greater, at the end of the
26 most recent fiscal year. The facts and circumstances regarding this violation are as follows.

27 12. On May 13, 2022, the Bureau and investigators from the Division of Investigation
28 (DOI) conducted a joint investigation and unannounced compliance inspection of Respondent
school. During the inspection, Bureau inspectors reviewed the school's financials for the period

1 January 1, 2021 through November 30, 2021. The school's ratio of current assets to current
2 liabilities was 0.88 to 1.00 instead of the minimum ratio of 1.25 to 1.00, in violation of Term 1 of
3 Respondent's probation.

4 **THIRD CAUSE TO REVOKE PROBATION**

5 **(Failure to Notify Prospective and/or Current Students)**

6 13. At all times after the effective date of Respondent's probation, Condition 5 stated:

7 **5. Notification to Prospective Students.** When currently soliciting or
8 enrolling (or re-enrolling) a student for any program, Respondent shall provide
9 notification of this action to each current or prospective student prior to accepting
10 their enrollment, and to those students who were enrolled at the time of the conduct
11 that is the subject of this action as directed by the Bureau. This notification shall
12 include a copy of the Accusation, Statement of Issues, Stipulated Settlement, or
13 Disciplinary Decision (whichever applies).

14 14. Respondent's probation is subject to revocation because it failed to comply with
15 Probation Condition 5, referenced above. The facts and circumstances regarding this violation
16 are as follows.

17 15. During the joint investigation and unannounced compliance inspection conducted on
18 May 13, 2022, a DOI investigator obtained paperwork provided to prospective students. The
19 paperwork consisted of an enrollment agreement, school policies and a payment ledger. A copy
20 of Disciplinary Decision in Accusation Case No. 1003292 was not included in the packet
21 provided to prospective students. In addition, interviews of current students Y.H. and O.M.
22 revealed they were not notified of Respondent's probationary status. As such, Respondent is in
23 violation of Term 5 of its probation.

24 **FOURTH CAUSE TO REVOKE PROBATION**

25 **(Failure to Comply With the Bureau's Probation Program)**

26 16. At all times after the effective date of Respondent's probation, Condition 2 stated:

27 **2. Compliance with Probation and Quarterly Reporting.** Respondent shall
28 fully comply with the terms and conditions of probation established by the Bureau and
shall cooperate with representatives of the Bureau in its monitoring and investigation of
the respondent's compliance with probation. Respondent, within ten (10) days of
completion of the quarter, shall submit quarterly written reports to the Bureau on a
Quarterly Report of Compliance form obtained from the Bureau.

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1 17. Respondent's probation is subject to revocation because it failed to comply with
2 Probation Condition 2, referenced above, in that Respondent has failed to fully comply with the
3 conditions of its probation as set forth in paragraphs 8 through 15, above.

4 **DISCIPLINARY CONSIDERATIONS**

5 18. To determine the degree of discipline, if any, to be imposed on Respondent,
6 Complainant alleges that on or about August 23, 2021, the Bureau issued Citation #2122039 and
7 ordered Respondent to pay a civil penalty in the amount of \$1,501.00, and to submit a written
8 policy, or procedure, of future compliance with title 5, California Code of Regulations 71770,
9 71920 and Education Code 94904. Respondent paid the civil penalty and submitted a written
10 policy or procedure regarding future compliance. The Citation is now final.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
13 Petition to Revoke Probation, and that following the hearing, the Director of the Department of
14 Consumer Affairs issue a decision:

15 1. Revoking the probation that was granted by the Director for the Bureau for Private
16 Postsecondary Education in Accusation Case No. 1003292 and imposing the disciplinary order
17 that was stayed thereby revoking Approval to Operate an Institution Non-Accredited Institution
18 Code No. 81663192 issued to American Beauty Institute LLC, dba American Beauty Institute;

19 2. Revoking or suspending Approval to Operate an Institution Non-Accredited
20 Institution Code No. 81663192 issued to American Beauty Institute LLC, dba American Beauty
21 Institute; and,

22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 8/12/2022

Deborah Cochran

24 **DEBORAH COCHRANE**
25 Chief
26 Bureau for Private Postsecondary
27 Education
28 Department of Consumer Affairs
State of California
Complainant

SD2022801820/83542777.docx

Exhibit A

Decision and Order

Bureau for Private Postsecondary Education Accusation Case No. 1003292

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**American Beauty Institute, LLC,
Dba American Beauty Institute**
4625 Convoy Street, Ste. A
San Diego, CA 92111

Case No. 1003292

OAH No. 2018120326

Approval to Operate an Institution, Non-
Accredited; School Code No. 81663192,

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Director of the Department of Consumer Affairs as the Decision and Order in the above-entitled matter.

AUG 15 2019

This Decision shall become effective on _____

IT IS SO ORDERED

July 12, 2019



RYAN MARCROFT
Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MARICHELLE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9435
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

9
10 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION.**
STATE OF CALIFORNIA
12
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14 In the Matter of the Accusation Against:

15 **AMERICAN BEAUTY INSTITUTE LLC,**
16 **DBA AMERICAN BEAUTY INSTITUTE**
4625 Convoy St Ste A
17 San Diego, CA 92111

18 Approval to Operate an Institution Non-
Accredited

19 Institution Code No. 81663192

20 Respondent.
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Case No. 1003292

OAH No. 2018120326

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 PARTIES

25 1. Dr. Michael Marion, Jr. (Complainant) is the Chief of the Bureau for Private
26 Postsecondary Education (Bureau). He brought this action solely in his official capacity and is
27 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
28 Marichelle S. Tahimic, Deputy Attorney General.

1 2. Respondent American Beauty Institute LLC, dba American Beauty Institute
2 (Respondent) is represented in this proceeding by attorney James C. Stevens, whose address is:
3 402 W. Broadway, Suite 400, San Diego, CA 92101.

4 3. On or about October 28, 2015, the Bureau issued Approval to Operate an Institution
5 Non-Accredited, Institution Code No. 81663192 to Respondent.

6 JURISDICTION

7 4. Accusation No. 1003292 was filed before the Director, and is currently pending
8 against Respondent. The Accusation and all other statutorily required documents were properly
9 served on Respondent on August 27, 2018. Respondent timely filed its Notice of Defense
10 contesting the Accusation.

11 5. A copy of Accusation No. 1003292 is attached as exhibit A and incorporated herein
12 by reference.

13 ADVISEMENT AND WAIVERS

14 6. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in Accusation No. 1003292. Respondent has also carefully read, fully
16 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
17 Order.

18 7. Respondent is fully aware of its legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
20 the witnesses against them; the right to present evidence and to testify on its own behalf; the right
21 to the issuance of subpoenas to compel the attendance of witnesses and the production of
22 documents; the right to reconsideration and court review of an adverse decision; and all other
23 rights accorded by the California Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

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CULPABILITY

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9. Respondent understands and agrees that the charges and allegations in Accusation No. 1003292, if proven at a hearing, constitute cause for imposing discipline upon its Approval to Operate an Institution Non-Accredited.

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10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up its right to contest those charges.

11. Respondent agrees that its Approval to Operate an Institution Non-Accredited is subject to discipline and it agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Director of the Department of Consumer Affairs or the Director's designee. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau for Private Postsecondary Education may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
4 writing executed by an authorized representative of each of the parties.

5 15. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Director may, without further notice or formal proceeding, issue and enter the following
7 Disciplinary Order:

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that the approval to operate a private postsecondary non-
10 accredited institution (Institution Code 81663192) issued to Respondent American Beauty
11 Institute LLC, dba American Beauty Institute is revoked. However, the revocation is stayed and
12 Respondent is placed on probation for three (3) years on the following terms and conditions.

13 **Severability Clause.** Each condition of probation contained herein is a separate and
14 distinct condition. If any condition of this Order, or any application thereof, is declared
15 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
16 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
17 and enforceable to the fullest extent permitted by law.

18 **1. Obey All Laws**

19 Respondent shall obey all federal, state and local laws and regulations governing the
20 operation of a private postsecondary educational institution in California. Respondent shall
21 submit, in writing, a full detailed account of any and all violations of the law to the Bureau within
22 five (5) days of discovery.

23 **CRIMINAL COURT ORDERS:** If respondent is under criminal court orders, including
24 probation or parole, and the order is violated, this shall be deemed a violation of these probation
25 conditions, and may result in the filing of an Accusation and/or Petition to Revoke Probation.

26 **2. Compliance with Probation and Quarterly Reporting**

27 Respondent shall fully comply with the terms and conditions of probation established by
28 the Bureau and shall cooperate with representatives of the Bureau in its monitoring and

1 investigation of the respondent's compliance with probation. Respondent, within ten (10) days of
2 completion of the quarter, shall submit quarterly written reports to the Bureau on a Quarterly
3 Report of Compliance form obtained from the Bureau.

4 **3. Personal Appearances**

5 Upon reasonable notice by the Bureau, Respondent shall report to and make personal
6 appearances at times and locations as the Bureau may direct.

7 **4. Notification of Address and Telephone Number Change(s)**

8 Respondent shall notify the Bureau, in writing, within five (5) days of a change of name,
9 title, physical home address, email address, or telephone number of each person, as defined in
10 section 94855 of the Code, who owns or controls 25% or more of the stock or an interest in of the
11 institution and, to the extent applicable, each general partner, officer, corporate director, corporate
12 member or any other person who exercises substantial control over the institution's management
13 or policies.

14 **5. Notification to Prospective Students**

15 When currently soliciting or enrolling (or re-enrolling) a student for any program,
16 Respondent shall provide notification of this action to each current or prospective student prior to
17 accepting their enrollment, and to those students who were enrolled at the time of the conduct that
18 is the subject of this action as directed by the Bureau. This notification shall include a copy of the
19 Accusation, Statement of Issues, Stipulated Settlement, or Disciplinary Decision (whichever
20 applies).

21 **6. Student Roster**

22 Within 15 days of the effective date of this Decision, and with the Quarterly Reports
23 thereafter, provide to the Bureau the names, addresses, phone numbers, email addresses, and the
24 programs in which they are or were enrolled, of all persons who are currently or were students of
25 the institution within 60 days prior to the effective date of the Decision, and those students who
26 were enrolled at the time of the conduct that is the subject of this action.

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1 **7. Instruction Requirements and Limitations**

2 During probation, Respondent shall provide approved instruction in the State of California.
3 If Respondent is not providing instruction, the period of probation shall be tolled during that time.

4 **8. Record Storage**

5 Within 5 days of the effective date of this Decision, provide the Bureau with the location of
6 the repository for all records as they are required to be maintained pursuant to Title 5, California
7 Code of Regulations, section 71930.

8 **9. Maintenance of Current and Active Approval to Operate**

9 Respondent shall, at all times while on probation, maintain a current and active approval to
10 operate with the Bureau including any period during which approval is suspended or probation is
11 tolled.

12 **10. Comply With Citations**

13 Respondent shall comply with all final orders resulting from citations issued by the Bureau.

14 **11. Cost Recovery Requirements**

15 Respondent shall pay to the Bureau its costs of investigation and enforcement in the amount
16 of \$6,500.00 no later than one year before the termination of probation. Such costs shall be
17 payable to the Bureau and are to be paid regardless of whether the probation is tolled. Failure to
18 pay such costs shall be considered a violation of probation.

19 Except as provided above, the Bureau shall not renew or reinstate the approval to operate of
20 any respondent who has failed to pay all the costs as directed in a Decision.

21 **12. Violation of Probation**

22 If Respondent violates probation in any respect, the Bureau, after giving respondent notice
23 and opportunity to be heard, may revoke probation and carry out the disciplinary order which was
24 stayed. If an Accusation or a Petition to Revoke Probation is filed against respondent during
25 probation, the Bureau shall have continuing jurisdiction until the matter is final, and the period of
26 probation shall be extended, and respondent shall comply with all probation conditions, until the
27 matter is final.

28 ///

1 13. Future Approvals to Operate

2 If Respondent subsequently obtains other approvals to operate during the course of this
3 probationary order, this Decision shall remain in full force and effect until the probationary period
4 is successfully terminated. Future approvals shall not be granted, however, unless Respondent is
5 currently in compliance with all of the terms and conditions of probation.

6 14. Comply with All Accreditation Standards

7 As applicable, Respondent shall comply with all standards set by its accreditor in order to
8 maintain its accreditation. Respondent shall submit to the Bureau, in writing, a full detailed
9 account of any and all actions taken by any accrediting agency against Respondent regarding any
10 institution operated by Respondent, including an order to show cause, or conditions or restrictions
11 placed on accreditation, within five (5) days of occurrence.

12 15. Completion of Probation

13 Upon successful completion of probation, Respondent's approval to operate will be fully
14 restored.

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, James C. Stevens. I understand the stipulation and the effect it will
18 have on the institution's Approval to Operate as an Institution Non-Accredited. I enter into this
19 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
20 to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

21
22 DATED: 05/28/2019

Signature: Chau Ha Suki Leung

23 Printed name/Title: Chau Ha Suki Leung/ CAO

24 Authorized agent of
25 AMERICAN BEAUTY INSTITUTE LLC,
26 DBA AMERICAN BEAUTY INSTITUTE
27 Respondent

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3 probationary order, this Decision shall remain in full force and effect until the probationary period
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9 account of any and all actions taken by any accrediting agency against Respondent regarding any
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11 placed on accreditation, within five (5) days of occurrence.

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17 discussed it with my attorney, James C. Stevens. I understand the stipulation and the effect it will
18 have on the institution's Approval to Operate an Institution Non-Accredited. I enter into this
19 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
20 to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.


21
22 DATED: 7/9/19 Signature: *Chau Ha Suet*
23 Printed name/Title: Chau Ha Suet Chow CAO
24 Authorized agent of
25 AMERICAN BEAUTY INSTITUTE LLC,
26 DBA AMERICAN BEAUTY INSTITUTE
27 Respondent
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I have read and fully discussed with Respondent American Beauty Institute LLC, dba American Beauty Institute the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/28/19



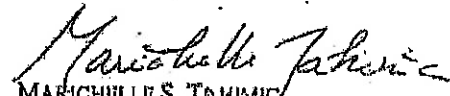
JAMES C. STEVENS
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of the Department of Consumer Affairs.

Dated: May 30, 2019

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ANTONETTE B. CINCOTTA
Supervising Deputy Attorney General


MARICHELLE S. TAMIMIC
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 1003292

1 XAVIER BECERRA
Attorney General of California
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MARICHELLE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9435
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

13
14 In the Matter of the Accusation Against:

Case No. 1003292

15 **AMERICAN BEAUTY INSTITUTE LLC,**
16 **DBA AMERICAN BEAUTY INSTITUTE**
4625 Convoy St Ste A
17 San Diego, CA 92111

ACCUSATION

18 Approval to Operate an Institution Non-
Accredited

19 School Code 81663192

20 Respondent.
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, Department of
26 Consumer Affairs.

27 ///

28 ///

1 includes 'certificate,' 'registration,' and 'permit.'"

2 6. Section 94938 of the Education Code (Code) states:

3 (a) If the bureau determines that it needs to make an emergency decision to
4 protect students, prevent misrepresentation to the public, or prevent the loss of
5 public funds or moneys paid by students, it may do so pursuant to Article 13
6 (commencing with Section 11460, 10) of Chapter 4.5 of Part 1 of Division 3 of
7 Title 2 of the Government Code.

8 COST RECOVERY

9 7. Section 125.3, subdivision (a), of the Code, states, in pertinent part:

10 Except as otherwise provided by law, in any order issued in resolution of a
11 disciplinary proceeding before any board within the department . . . the board may
12 request the administrative law judge to direct a licentiate found to have committed
13 a violation or violations of the licensing act to pay a sum not to exceed the
14 reasonable costs of the investigation and enforcement of the case.

15 STATUTORY AND REGULATORY PROVISIONS

16 8. Business and Professions Code section 477 states:

17 As used in this division:

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

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

22 9. Section 94893 of the Code states:

23 If an institution intends to make a substantive change to its approval to operate,
24 the institution shall receive prior authorization from the bureau. Except as
25 provided in subdivision (a) of Section 94896, if the institution makes the
26 substantive change without prior bureau authorization, the institution's approval
27 to operate may be suspended or revoked.

28 10. Section 94897 of the Code states:

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:

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...

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

...

11. Section 94900 of the Education Code states:

(a) An institution shall maintain records of the name, address, e-mail address, and telephone number of each student who is enrolled in an educational program in that institution.

(b) An institution shall maintain, for each student granted a degree or certificate by that institution, permanent records of all of the following:

(1) The degree or certificate granted and the date on which that degree or certificate was granted.

(2) The courses and units on which the certificate or degree was based.

(3) The grades earned by the student in each of those courses.

12. Section 94900.5 of the Code states in part:

An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information:

...

(b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty.

(c) Any other records required to be maintained by this chapter, including, but not limited to, records maintained pursuant to Article 16 (commencing with Section 94928).

13. Section 94902 of the Code states:

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

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

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

...

(3) Prior to the execution of the enrollment agreement, the student and the institution have signed and dated the information required to be disclosed in the Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of

1 Section 94910. Each of these items in the Student Performance Fact Sheet shall
2 include a line for the student to initial and shall be initialed and dated by the
3 student.

4 14. Section 94906 of the Code states:

5 (a) An enrollment agreement shall be written in language that is easily
6 understood. If English is not the student's primary language, and the student is
7 unable to understand the terms and conditions of the enrollment agreement, the
8 student shall have the right to obtain a clear explanation of the terms and
9 conditions and all cancellation and refund policies in his or her primary language.

(b) If the recruitment leading to enrollment was conducted in a language other
than English, the enrollment agreement, disclosures, and statements shall be in
that language.

10 15. Section 94911 of the Education Code states:

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

12 ...
13 (b) A schedule of total charges, including a list of any charges that are
14 nonrefundable and the student's obligations to the Student Tuition Recovery
15 Fund, clearly identified as nonrefundable charges.

16 (h) The transferability disclosure that is required to be included in the school
17 catalog, as specified in paragraph (15) of subdivision (a) of Section 94909.
18 ...

19 16. Section 94912 of the Code states:

20 Prior to the execution of an enrollment agreement, the information required to be
21 disclosed pursuant to subdivisions (a) to (d), inclusive, of Section 94910 shall be
22 signed and dated by the institution and the student. Each of these items shall also
be initialed and dated by the student.

23 17. Section 94929.7 of the Code states:

24 (a) The information used to substantiate the rates and information calculated
25 pursuant to Sections 94929 and 94929.5 shall do both of the following:

26 (1) Be documented and maintained by the institution for five years from
the date of the publication of the rates and information.

27 (2) Be retained in an electronic format and made available to the bureau
28 upon request. ...

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18. Title 5, California Code of Regulations (CCR), section 71650 states in part:

(a) An institution seeking to change its educational objectives shall complete the "Change in Educational Objectives" form (OBJ rev. 2/10) to obtain prior authorization. The form shall be submitted to the Bureau along with the appropriate fee as provided in Section 94930,5(c) of the Code. For an institution approved under section 94885 of the Code it shall be signed and dated by the signatory(ies) required by section 71380, and for an institution approved under section 94890 of the Code it shall be signed and dated by the signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

"I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

(Date)

(Signature)

19. Title 5, CCR, section 71660 states:

An institution shall notify the Bureau of a non-substantive change including: change of location of less than 10 miles; addition of a program related to the approved programs offered by the institution; addition of a new branch five miles or less from the main or branch campus; addition of a satellite; and change of mailing address. All such notifications shall be made within 30 days of the change and sent to the Bureau, in writing, to the address listed in section 70020.

20. Title 5, CCR, section 71715 states in part:

(a) Instruction shall be the central focus of the resources and services of the institution.

...

21. Title 5, CCR, section 71720 states in part:

...

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

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

///

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

4 22. Title 5, CCR, section 71730 states in part:

5 (a) Each institution shall have a chief executive officer, a chief operating officer
6 and chief academic officer. One person may serve more than one function.

7 ...
8 (d) The administrative staffing at each branch location shall reflect the purposes,
9 size, and educational operations at that location and at any satellite location for
10 which the branch has administrative responsibilities.

11 23. Title 5, CCR, section 71745 states in part:

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

14 ...
15 (3) Maintain the minimum standards required by the Act and this chapter.

16 ...
17 (6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater
18 at the end of the most recent fiscal year when using generally accepted accounting
19 principles, or for an institution participating in Title IV of the federal Higher
20 Education Act of 1965, meet the composite score requirements of the U.S.
21 Department of Education. For the purposes of this section, current assets does
22 not include: intangible assets, including goodwill, going concern value,
23 organization expense, startup costs, long-term prepayment of deferred charges,
24 and non-returnable deposits, or state or federal grant or loan funds that are not
25 the property of the institution but are held for future disbursement for the benefit
26 of students. Unearned tuition shall be accounted for in accordance with general
27 accepted accounting principles.

28 24. Title 5, CCR, section 71750 states in part:

...
(f) The institution shall maintain a cancellation and withdrawal log, kept current
on a monthly basis, which shall include the names, addresses, telephone numbers,
and dates of cancellations or withdrawal of all students who have cancelled the
enrollment agreement with, or withdrawn from, the institution during the
calendar year.

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25. Title 5, CCR, section 71760 states:

Each institution shall develop and maintain adequate procedures used by the institution to assure that it is maintained and operated in compliance with the Act and this Division.

26. Title 5, CCR, section 71770 states in part:

(a) The institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify as applicable that:

(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code.

27. Title 5, CCR, section 71800 states in part:

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

- ...
- (b) Period covered by the enrollment agreement.
- (c) Program start date and scheduled completion date.
- (d) Date by which the student must exercise his or her right to cancel or withdraw, and the refund policy, including any alternative method of calculation if approved by the Bureau pursuant to section 94921 of the Code.
- (e) Itemization of all institutional charges and fees including, as applicable:
 - (1) tuition;
 - (2) registration fee (non-refundable);
 - (3) equipment;
 - (4) lab supplies or kits;
 - (5) Textbooks, or other learning media;
 - (6) uniforms or other special protective clothing;
 - (7) in-resident housing;
 - (8) tutoring;

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- (9) assessment fees for transfer of credits;
- (10) fees to transfer credits;
- (11) Student Tuition Recovery Fund fee (non-refundable);
- (12) any other institutional charge or fee.

28. Title 5, CCR, section 71920 states in part:

(a) The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service.

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

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

(A) Verification of high school completion or equivalency or other documentation establishing the student's ability to do college level work, such as successful completion of an ability-to-benefit test;

(5) In addition to the requirements of section 94900(b) of the Code, a transcript showing all of the following:

(A) The courses or other educational programs that were completed, or were attempted but not completed, and the dates of completion or withdrawal;

(9) A document showing the total amount of money received from or on behalf of the student and the date or dates on which the money was received;

29. Title 5, CCR, section 71930 states in part:

(a) An institution shall maintain all records required by the Act and this chapter. The records shall be maintained in this state.

(b)(1) In addition to permanently retaining a transcript as required by section 94900(b) of the Code, the institution shall maintain for a period of 5 years the pertinent student records described in Section 71920 from the student's date of completion or withdrawal.

1 (e) All records that the institution is required to maintain by the Act or this chapter
2 shall be made immediately available by the institution for inspection and copying
3 during normal business hours by the Bureau and any entity authorized to conduct
4 investigations.

5 ...
6 30. Title 5, CCR, section 74112 states in part:
7 ...

8 (m) Documentation supporting all data reported shall be maintained
9 electronically by the institution for at least five years from the last time the data
10 was included in either an Annual Report or a Performance Fact Sheet and shall
11 be provided to the Bureau upon request; the data for each program shall include
12 at a minimum:

13 (1) the list of job classifications determined to be considered gainful
14 employment for the educational program;

15 (2) student name(s), address, phone number, email address, program
16 completed, program start date, scheduled completion date, and actual completion
17 date;

18 (3) graduate's place of employment and position, date employment began,
19 date employment ended, if applicable, actual salary, hours per week, and the date
20 employment was verified;

21 (4) for each employer from which employment or salary information was
22 obtained, the employer name(s) address and general phone number, the contact
23 person at the employer and the contact's phone number and email address, and
24 all written communication with employer verifying student's employment or
25 salary;

26 (5) for students who become self-employed, all documentation necessary
27 to demonstrate self-employment;

28 (6) a description of all attempts to contact each student or employer;

(7) any and all documentation used to provide data regarding license
examinations and examination results;

(8) for each student determined to be unavailable for graduation or
unavailable for employment, the identity of the student, the type of unavailability,
the dates of unavailability, and the documentation of the unavailability; and

(9) the name, email address, phone number, and position or title of the
institution's representative who was primarily responsible for obtaining the
students' completion, placement, licensing, and salary and wage data, the date
that the information was gathered, and copies of notes, letters or emails through
which the information was requested and gathered.

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31. Title 5, CCR, section 74115 states in part:

...

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

...

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

...

32. Title 5, CCR, section 76120 states:

(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).

33. Title 5, CCR, section 76140 states in part:

(a) A qualifying institution shall collect and maintain records of student information to substantiate the data reported on the STRF Assessment Reporting Form and records of the students' eligibility under the Fund. Such records shall include the following for each student:

(1) Student identification number,

(2) First and last names,

(3) Email address,

(4) Local or mailing address,

(5) Address at the time of enrollment,

(6) Home address,

(7) Date enrollment agreement signed,

(8) Courses and course costs,

(9) Amount of STRF assessment collected,

(10) Quarter in which the STRF assessment was remitted to the Bureau,

(11) Third-party payer identifying information,

(12) Total institutional charges charged, and

(13) Total institutional charges paid. ...

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FACTS

34. On or about February 27, 2018, the Bureau received notification from Respondent, pursuant to Code section 94934.5, that Respondent had been cited by the California Board of Barbering and Cosmetology (BBC) for insufficient equipment for the educational programs they offered. Respondent stated that they had the required equipment, but it was currently in storage on site.

35. The Bureau's Investigator obtained a copy of BBC's citation and BBC's December 5, 2017, inspection report. The inspection report noted that an instructor was using the Esthetics classroom to teach and provide microblading. As of March 7, 2018, Respondent had approval to offer courses in Barbering, Cosmetology, Esthetician, Manicurist, and Massage Therapy. Respondent is not currently, nor ever has been, approved to offer an educational program in Microblading.

36. On or about April 18, 2018, Respondent's website advertised that the school offered the following programs: Makeup, Cosmetology, Barbering, Esthetician, Massage Therapy, Eyelash Extension and Microblading. Respondent is not currently, nor ever has been, approved to offer courses in Makeup and Eyelash Extensions. In addition, Respondent did not have a pending application for a Change in Educational Objectives in order to add educational programs in Makeup, Eyelash Extensions and Microblading.

37. Respondent's website also stated:

Get Licensed

As a graduate of the American Beauty Institute Cosmetology, Esthetician, Manicure, Barbering, or Massage program you will be fully prepared and eligible for the state licensing examination.

Respondent advertised that a graduate from its massage program would be eligible for state licensure. However, there is no state license exam for Massage Therapy. As such, this is an untrue statement and misleading statement.

38. Respondent's 2017 financial statements, which were submitted to Bureau with its 2016 Annual Report indicated Respondent had total current assets of \$890 and total current

1 liabilities of \$5,255, equating to a current assets-to-liabilities ratio of .17 to 1.00. An institution is
2 required to have an assets-to-liabilities ratio of 1.25 (or greater) to 1.00.

3 39. On April 25, 2018, Investigators from the Bureau conducted a field investigation of
4 Respondent school. When the investigators arrived, there were no instructors present although
5 there were four students present. A student was providing an eyelash service for a member of the
6 public. Approximately 30 minutes later, another customer arrived. There was still no instructor
7 or school administrator on site. Respondent allowed students access to the school hours before
8 instructors arrived in order for students to provide lash services and facials to clients or to
9 participate in self-directed study because of the lack of instructors available.

10 40. At 11 a.m., S.L., the School Director arrived on Site. S.L. stated she is also the
11 Esthetics class instructor. S.L. advised that C.W., the Director of Admissions, was on his way to
12 the school. S.L. stated that the school did not have a Chief Executive Officer (CEO) or a Chief
13 Operating Officer (COO). S.L. sometimes acted as the Chief Academic Officer (CAO). S.L. was
14 unclear as to the role of any of these positions. S.L. also stated that Respondent did not have any
15 self-monitoring procedures and was unclear as to what they would be. In addition, Respondent
16 was not using the required BBC curriculum to teach students. S.L. stated that Respondent does
17 not maintain SPFS or STRF backup documentation, which is a record that is required to be
18 maintained.

19 41. At the time of the site visit in April, 2018, Respondent offered programs in
20 Cosmetology, Manicuring, Esthetician, Barbering, and Massage Therapy although Respondent
21 did not currently have an instructor for the Barbering program and was enrolling students in the
22 Massage Therapy program.

23 42. Respondent offered prospective students a 10-day trial period to attend classes.
24 Respondent would collect a \$500 deposit from the student at the beginning of the trial period. If
25 the student wanted to continue to attend classes at the end of the trial period, the student would
26 sign an enrollment agreement and provide admissions documents to Respondent. On occasion,
27 Respondent will allow a student who had not paid the deposit to have the trial period. But in
28

1 these cases, the student was not allowed to accumulate hours while in attendance. Respondent did
2 not keep records of the students who attended the trial period and then chose not to enroll.

3 43. Respondent recruited and enrolled Chinese and Spanish speaking students without the
4 Bureau's approval to teach in a language other than English. Respondent recruited and enrolled
5 Chinese and Spanish speaking students without an Enrollment Agreement or other required
6 disclosures in any language other than English.

7 44. The Bureau's investigator reviewed the student file of the Chinese-speaking student.
8 The file contained only a receipt for the full tuition payment, a breakdown of tuition charges and
9 a copy of the student's time card.

10 45. Additionally, Respondent advertised that it collected fees for the Student Tuition
11 Recovery Fund in excess of the current assessment rate of \$0.00.

12 46. The Bureau's Compliance Inspector, M.A., requested faculty files to review. S.L.
13 stated Respondent did not have faculty files, but provided a list of faculty. Respondent did not
14 require continuing education for its instructors.

15 47. M.A. also requested the student files of current, withdrawn, and graduated students to
16 review. S.L. stated that due to the school's trial period, Respondent did not have withdrawn
17 student files. Furthermore, Respondent did not have a student roster. M.A. reviewed a sampling
18 of the student files of current and graduated students.

19 **Review of Student Files:**

20 48. Student files were deficient as follows:

21 a. The student files did not contain a signed and dated SPFS. [Student files of C.N.,
22 S.V., V.V., Y.G., L.P., B.D., K.L.]

23 b. The student files contained an Enrollment Agreement that did not identify the total
24 charges the student was obligated to pay. [Student files of C.N., S.V., V.V., B.D., K.L., L.P.]

25 c. The student files did not contain proof of a High School Diploma, GED, or ATB
26 demonstrating that the student was qualified for admission to the program. [Student files of C.N.,
27 S.V., V.V., Y.G. K.L.]

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- 1 d. The student files contained an Enrollment Agreement that did not identify the STRF
2 Assessment charges. [Student files of C.N., S.V., V.V., L.P., B.D., K.L.]
- 3 e. The student files contained an Enrollment Agreement that did not identify the period
4 covered by the Enrollment Agreement. [Student files of C.N., S.V., V.V., L.P., B.D.]
- 5 f. The student files contained an Enrollment Agreement that did not identify the
6 program completion date. [C.N., S.V., L.P., B.D.]
- 7 g. The student files did not contain a document showing the total amount of money
8 received by or on behalf of student. [Student files of C.N., V.V., Y.G., S.V., L.P., B.D., K.L.]
- 9 h. The student files contained an Enrollment Agreement that failed to contain a
10 signature from an authorized representative of the institution. [Student files of S.V., V.V., L.P.,
11 B.D., K.L.]
- 12 i. The student file of V.V. contained a Proof-Of-Training (POT) document that
13 reflected an untrue statement with a student signature and a signature from an authorized
14 representative of the institution for a completion date in the future.
- 15 j. The student file of V.V. contained an Enrollment Agreement that failed to identify the
16 date by which the student must exercise their right to cancel.
- 17 k. The student file of Y.G. failed to contain an Enrollment Agreement.
- 18 l. The student files did not contain a transcript showing the courses that were
19 completed, or attempted and not completed. [Student files of L.P., B.D., K.L.]
- 20 m. The student files contained an Enrollment Agreement where the required disclosure
21 regarding transferability of credits was missing program information. [Student files of L.P., B.D.,
22 K.L.]
- 23 n. The student file of B.D. contained an Enrollment Agreement that failed to identify the
24 date by which the student must exercise their right to cancel.
- 25 **STRF Assessment Reporting Form:**
- 26 49. As of May 10, 2018, Respondent had not submitted their First Quarter 2016 and 4th
27 Quarter 2016 STRF Assessment Reporting Forms.
- 28 ///

1 Annual Report:

2 50. Respondent's 2016 Annual Report submitted to the Bureau contained information
3 that did not match the information reported on the 2015/2016 SPFS as follows:

4 a. The 2016 Annual Report stated eight students completed the Manicurist program on
5 time. The 2015/2016 SPFS stated three students completed the program on time for the same
6 time period.

7 b. The 2016 Annual Report stated three students completed the Esthetician program on
8 time. The 2015/2016 SPFS stated zero students completed the program on time for the same time
9 period.

10 Issuance of Emergency Decision:

11 51. Following the Bureau's investigation and because of the threat of an immediate
12 danger to the public, the Bureau, pursuant to its authority under Code section 94938 and title 5,
13 CCR, section 75150, issued an emergency decision effective on August 27, 2018. The
14 emergency decision ordered Respondent to: (1) cease enrollment of any new students in all
15 programs and (2) cease the collection of tuition and fees for all institutional programs.

16 FIRST CAUSE FOR DISCIPLINE

17 (Engaging in Prohibited Business Practice)

18 52. Respondent is subject to disciplinary action under Code section 94897(j) for engaging
19 in prohibited business practices by making an untrue or misleading statement related to a record
20 indicating student completion or other document required by the Bureau, as follows and as more
21 fully set forth in paragraphs 34-51 above and incorporated herein:

22 a. The student completion rates in the 2016 Annual Report submitted to the Bureau
23 contained information that did not match the information reported on the 2015/2016 SPFS
24 regarding the number of students who completed the Manicuring and Esthetician programs on
25 time, as set forth in paragraphs 34-51 above, and incorporated herein as though set forth in full.

26 b. The student file of V.M. contained a Proof of Training document with an untrue
27 statement. The document stated V.M. completed the program on May 30, 2018, and completed
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1 600 hours of training. However, the document was signed by the student and a school
2 representative in April, 2018, prior to the completion of 600 hours.

3 c. Respondent's website stated that its Massage Therapy program will lead to state
4 licensure but there is not a state license for Massage Therapy.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Unapproved Programs)

7 53. Respondent is subject to disciplinary action under Code section 94893 and title 5,
8 CCR, section 71650(a), in that Respondent offered programs without receiving prior
9 authorization from the Bureau in that Respondent advertised and offered a Microblading program
10 as more fully set forth in paragraphs 34-51 above and incorporated herein.

11 **THIRD CAUSE FOR DISCIPLINE**

12 (Notification of Non-Substantive Change)

13 54. Respondent is subject to disciplinary action under title 5, CCR, section 71660 for
14 failing to notify the Bureau of a non-substantive change such as the addition of a program related
15 to the approved programs offered by it within 30 days of the change. Respondent advertised the
16 Makeup and Eyelash Extensions programs, which were unapproved, without notifying the Bureau
17 and receiving prior approval, as more fully set forth in paragraphs 34-51 above and incorporated
18 herein.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 (Failure to Meet Minimum Operating Standards - Instruction)

21 55. Respondent is subject to disciplinary action under title 5, CCR, section 71715(a) in
22 that instruction was not the central focus of the resources and services of the institution in that
23 students provided services to customers without instructor supervision and students engaged in
24 self-study due to the unavailability of instructors, as more fully set forth in paragraphs 34-51
25 above and incorporated herein.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Meet Minimum Operating Standards - Faculty)**

3 56. Respondent is subject to disciplinary action under title 5, CCR, section 71720(b)(1)
4 and (b)(2) in that Respondent was unable to demonstrate that it had instructors who possessed the
5 academic, experiential and professional qualifications to teach, including a minimum of three
6 years of experience, education and training in current practices of the subject area they are
7 teaching, as set forth below and as more fully set forth in paragraphs 34-51 above and
8 incorporated herein:

9 a. Respondent advertised and offered a Barbering program but did not have any faculty
10 member for the program.

11 b. Respondent was unable to provide any faculty files that demonstrated that they
12 employed qualified instructors.

13 c. Respondent did not have the administrative staff that reflected the purpose, size and
14 educational operations of its location.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Failure to Meet Minimum Operating Standards - Administration)**

17 57. Respondent is subject to disciplinary action under title 5, CCR, section 71730(a) and
18 (d) in that Respondent failed to have a CEO or a COO and failed to have administrative personnel
19 who were able to access student files and administrative records. Moreover, Respondent did not
20 have an administrative representative that could assist students who wished to make payments,
21 enroll in the institution, or withdraw from the institution during posted normal business hours, as
22 more fully set forth in paragraphs 34-51 above and incorporated herein.

23 **SEVENTH CAUSE FOR DISCIPLINE**

24 **(Failure to Meet Minimum Operating Standards - Self-Monitoring Procedures)**

25 58. Respondent is subject to disciplinary action under title 5, CCR, section 71760 in that
26 Respondent failed to develop and maintain adequate procedures used by the institution to assure
27 that it is maintained and operated in compliance with the Act and the Bureau's regulations, as
28 more fully set forth in paragraphs 34-51 above and incorporated herein.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Meet Minimum Operating Standards – Financial Resources)**

3 59. Respondent is subject to disciplinary action under title 5, CCR, sections 71745(a)(3)
4 and (a)(6) and section 74115(b)(3), for failure to document that it has at all times sufficient assets
5 and financial resources to maintain the minimum operating standards as set forth below and as
6 more fully set forth in paragraphs 34-51 above and incorporated herein.

7 60. Respondent provided its 2017 Financial Statements as part of the 2016 Annual Report
8 showing current assets to liabilities ratio was .17 to 1.00, rather than the required 1.25 (or greater)
9 to 1.00.

10 **NINTH CAUSE FOR DISCIPLINE**

11 **(Failure to Meet Minimum Operating Standards – Language of Enrollment Agreement)**

12 61. Respondent is subject to disciplinary action under Code section 94906(a) and (b), for
13 failing to meet the minimum operating standards pertaining to enrollment agreements, in that
14 Respondent enrolled students whose primary language was not English but did not provide an
15 enrollment agreement, school catalog, the SPFS or any required disclosure in the student's
16 primary language, as more fully set forth in paragraphs 34-51 above and incorporated herein

17 **TENTH CAUSE FOR DISCIPLINE**

18 **(Failure to Meet Minimum Operating Standards – General Enrollment Agreement**
19 **Requirements)**

20 62. Respondent is subject to disciplinary action under Code sections 94902(a), (b)(1),
21 (b)(3), 94911(b) and (h), and 94912, and title 5, CCR, sections 71800(b), (c), (d), and (e)(1-12),
22 for failing to meet the minimum operating standards pertaining to enrollment agreements, as set
23 forth below and as more fully set forth in paragraphs 34-51 above and incorporated herein:

24 a. Respondent allowed students to attend school for up to ten days on a trial basis for a
25 \$500 deposit without a signed enrollment agreement.

26 b. The student files of S.V., V.M., Y.G., T.P. B.D. and K.L. contained enrollment
27 agreements that were not signed by an authorized representative of the school.

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1 c. The student files of C.N., S.V., V.M., Y.B., L.P., B.D. and K.L. did not contain
2 documentation that the student was provided with an SPFS prior to enrollment and that the
3 student signed and dated an SPFS prior to enrollment.

4 d. The student files for C.N., S.V., V.M., Y.G., L.P., B.D., and K.L. contained an
5 Enrollment Agreement that failed to identify the total charges the student was obligated to pay.

6 e. The student files for C.N., S.V., V.M., Y.G., L.P., B.D., and K.L. contained an
7 Enrollment Agreement that did not identify STRF Assessment fees.

8 f. The student files for L.P., B.D., and K.L. contained an Enrollment Agreement lacking
9 program information in the required disclosure regarding transferability of credits.

10 g. The student files for C.N., S.V., V.M., L.P., and B.D. contained an Enrollment
11 Agreement that failed to identify the period covered by the Enrollment Agreement.

12 h. The student files for C.N., S.V., L.P., and B.D. contained an Enrollment Agreement
13 that failed to identify the program start date and scheduled completion date.

14 i. The student files for V.M., and B.D. contained an Enrollment Agreement that failed
15 to identify the date by which the student must exercise their right to cancel.

16 **ELEVENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Meet Minimum Operating Standards – Student Records)**

18 63. Respondent is subject to disciplinary action under Code sections 94900(a) and (b)(1)-
19 (3) and title 5, CCR, section 719209(b)(9), for failing to meet the minimum operating standards
20 pertaining to maintenance of student records, as set forth below and as more fully set forth in
21 paragraphs 34-51 above and incorporated herein:

22 a. Respondent was unable to provide documentation that of the name, address, e-mail
23 address and telephone number of each student who was enrolled at the institution. Respondent
24 allowed students to attend school for up to ten days without officially enrolling. If the student
25 decides they do want to continue on, Respondent will not fill out paperwork indicating their
26 attendance.

27 b. Respondent does not maintain transcripts for graduates or withdrawn students.

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1 c. The student files for L.P., B.D., and K.L. did not contain a copies of the certificate
2 earned or transcripts demonstrating the certificate earned, the courses attended or the grades
3 received.

4 d. Respondent did not keep records of the certificates awarded, the courses attended on
5 which the certificate was based, and the grades for those courses.

6 e. The student files for C.N., S.V., V.M., Y.G., L.P., B.D., and K.L. did not contain a
7 document showing total amount of money received by or on behalf of student.

8 **TWELFTH CAUSE FOR DISCIPLINE**

9 **(Failure to Meet Minimum Operating Standards – Institutional Records)**

10 64. Respondent is subject to disciplinary action under Code section 94900.5(b) and (c)
11 for failing to meet the minimum operating standards pertaining to maintenance of institutional
12 records, as set forth below and as more fully set forth in paragraphs 34-51 above and incorporated
13 herein:

14 a. Respondent was unable to provide a list of the names and addresses of the members
15 of the faculty as well as the educational qualifications for all currently employed faculty.

16 b. Respondent does not maintain SPFS or STRF backup documentation.

17 **THIRTEENTH CAUSE FOR DISCIPLINE**

18 **(Failure to Meet Minimum Operating Standards – Withdrawals and Refunds)**

19 65. Respondent is subject to disciplinary action under title 5, CCR, sections 71750(f) for
20 failing to maintain a cancellation and withdrawal log, that includes the names, addresses,
21 telephone numbers, and dates of cancellations or withdrawal of all students who have cancelled
22 the enrollment agreement with, or withdrawn from, the institution during the calendar year, as
23 more fully set forth in paragraphs 34-51 above and incorporated herein:

24 **FOURTEENTH CAUSE FOR DISCIPLINE**

25 **(Failure to Meet Minimum Operating Standards – Admissions Standards)**

26 66. Respondent is subject to disciplinary action under title 5, CCR, sections 71770(a)(1)
27 and section 71920(b)(1)(A), and (b)(5)(A), for failing to maintain verification of high school
28

1 completion or equivalency, or other records and transcripts of any formal education or training, as
2 set forth below and as more fully set forth in paragraphs 34-51 above and incorporated herein:

3 a. The student files of C.N., S.V., V.M., Y.G., and K.L. did not contain proof of High
4 School Diploma, GED, or Ability to Benefit. Respondent did not verify that a student would
5 have a reasonable prospect of completing the program by verifying that the student possessed the
6 equivalent of a High School Diploma.

7 b. The student files of L.P., B.D., and K.L. did not contain a copy of the certificate or
8 transcript demonstrating the certificate earned, the courses attended or the grades received.
9 Respondent failed to keep records of the certificates awarded, the courses attended on which the
10 certificate was based and the grades for those courses.

11 **FIFTEENTH CAUSE FOR DISCIPLINE**

12 **(Failure to Meet Minimum Operating Standards – Maintenance of Records)**

13 67. Respondent is subject to disciplinary action under title 5, CCR, sections 71930(a) and
14 (b)(1), (e), for failing to maintain required institutional records and failing to have faculty files
15 immediately available for inspection, as set forth below and as more fully set forth in paragraphs
16 34-51 above and incorporated herein:

17 a. Respondent did not maintain SPFS backup documentation, which is a record that is
18 required to be maintained.

19 b. Respondent does not maintain STRF backup documentation, which is a record that is
20 required to be maintained.

21 c. Respondent failed to provide faculty files for all faculty that are currently employed,
22 which is a record that is required to be maintained.

23 d. Respondent did not maintain student files for each student who attended school.

24 e. Respondent failed to demonstrate that it maintained records of the name, address, e-
25 mail address and telephone number of each student enrolled at the institution.

26 f. The student files of L.P., B.D., and K.L. did not contain a copy of the certificate or
27 transcript demonstrating the certificate earned, the courses attended or the grades received.
28

1 Respondent did not keep records of the certificates awarded, the courses attended on which the
2 certificate was based and the grades for those courses, as required.

3 g. Respondent was unable to provide all faculty files when requested.

4 **SIXTEENTH CAUSE FOR DISCIPLINE**

5 (School Performance Fact Sheet)

6 68. Respondent is subject to disciplinary action under Code section 94929.7(a)(1) and
7 (2), and title 5, CCR, section 74112(m)(1) - (9), for failing to maintain information used to
8 substantiate the rates and information provided in the SPFS, in that Respondent did not maintain
9 any SPFS backup documentation to substantiate the information reported in the Annual Report or
10 the SPFS. Respondent failed to provide proof that it attempted to collect all of the information
11 required to be recorded to substantiate the information on the 2015/2016 SPFS, as more fully set
12 forth in paragraphs 34-51 above and incorporated herein.

13 **SEVENTEENTH CAUSE FOR DISCIPLINE**

14 (Amount of Student Tuition Recovery Fund)

15 69. Respondent is subject to disciplinary action under title 5, CCR, section 76120(a) and
16 for collect an assessment for the STRF in excess of the current assessment rate in that the tuition
17 breakdown provided by Respondent to its students lists an STRF assessment in excess of \$0.00,
18 which is the current assessment rate, as more fully set forth in paragraphs 34-51 above and
19 incorporated herein.

20 **EIGHTEENTH CAUSE FOR DISCIPLINE**

21 (Student Tuition Recovery Fund – Recordkeeping Requirements)

22 70. Respondent is subject to disciplinary action under title 5, CCR, section 76140(a)(1)-
23 (13) for failing to maintain STRF backup documentation as required to substantiate the
24 information reported on the STRF Assessment Forms submitted to the Bureau, as more fully set
25 forth in paragraphs 34-51 above and incorporated herein.

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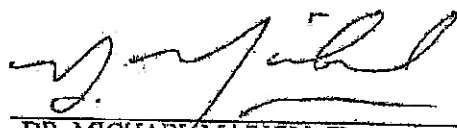
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PRAYER

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

1. Revoking or suspending the Approval to Operate an Institution Non-Accredited 81663192, issued to American Beauty Institute LLC, dba American Beauty Institute;
2. Ordering Chau Ha Suki Leung to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and Code section 94937(c); and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/27/18 
DR. MICHAEL MARION, JR.
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

SD2018700585
71374107.docx

Exhibit B

Decision and Order No. 1003292 Effective August 15, 2019

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**American Beauty Institute, LLC,
Dba American Beauty Institute**
4625 Convoy Street, Ste. A
San Diego, CA 92111

Approval to Operate an Institution, Non-
Accredited; School Code No. 81663192,

Respondent.

Case No. 1003292

OAH No. 2018120326

DECISION AND ORDER

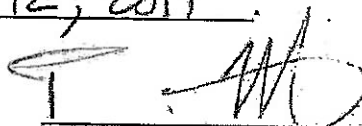
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Director of the Department of Consumer Affairs as the Decision and Order in the above-entitled matter.

AUG 15 2019

This Decision shall become effective on _____

IT IS SO ORDERED

July 12, 2019



RYAN MARCROFT
Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MARICHELLE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9435
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

9
10 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION.**
STATE OF CALIFORNIA
12
13

14 In the Matter of the Accusation Against:

Case No. 1003292

15 **AMERICAN BEAUTY INSTITUTE LLC,**
16 **DBA AMERICAN BEAUTY INSTITUTE**
4625 Convoy St Ste A
17 San Diego, CA 92111

OAH No. 2018120326

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 Approval to Operate an Institution Non-
Accredited

19 Institution Code No. 81663192

20 Respondent.
21

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 PARTIES

25 1. Dr. Michael Marion, Jr. (Complainant) is the Chief of the Bureau for Private
26 Postsecondary Education (Bureau). He brought this action solely in his official capacity and is
27 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
28 Marichelle S. Tahimic, Deputy Attorney General.

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 1003292, if proven at a hearing, constitute cause for imposing discipline upon its Approval to
4 Operate an Institution Non-Accredited.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up its right to contest
8 those charges.

9 11. Respondent agrees that its Approval to Operate an Institution Non-Accredited is
10 subject to discipline and it agrees to be bound by the Director's probationary terms as set forth in
11 the Disciplinary Order below.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Director of the Department of
14 Consumer Affairs or the Director's designee. Respondent understands and agrees that counsel for
15 Complainant and the staff of the Bureau for Private Postsecondary Education may communicate
16 directly with the Director and staff of the Department of Consumer Affairs regarding this
17 stipulation and settlement, without notice to or participation by Respondent or its counsel. By
18 signing the stipulation, Respondent understands and agrees that they may not withdraw its
19 agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon
20 it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated
21 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
22 be inadmissible in any legal action between the parties, and the Director shall not be disqualified
23 from further action by having considered this matter.

24 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
25 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
26 signatures thereto, shall have the same force and effect as the originals.

27 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
4 writing executed by an authorized representative of each of the parties.

5 15. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Director may, without further notice or formal proceeding, issue and enter the following
7 Disciplinary Order:

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that the approval to operate a private postsecondary non-
10 accredited institution (Institution Code 81663192) issued to Respondent American Beauty
11 Institute LLC, dba American Beauty Institute is revoked. However, the revocation is stayed and
12 Respondent is placed on probation for three (3) years on the following terms and conditions.

13 **Severability Clause.** Each condition of probation contained herein is a separate and
14 distinct condition. If any condition of this Order, or any application thereof, is declared
15 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
16 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
17 and enforceable to the fullest extent permitted by law.

18 **1. Obey All Laws**

19 Respondent shall obey all federal, state and local laws and regulations governing the
20 operation of a private postsecondary educational institution in California. Respondent shall
21 submit, in writing, a full detailed account of any and all violations of the law to the Bureau within
22 five (5) days of discovery.

23 **CRIMINAL COURT ORDERS:** If respondent is under criminal court orders, including
24 probation or parole, and the order is violated, this shall be deemed a violation of these probation
25 conditions, and may result in the filing of an Accusation and/or Petition to Revoke Probation.

26 **2. Compliance with Probation and Quarterly Reporting**

27 Respondent shall fully comply with the terms and conditions of probation established by
28 the Bureau and shall cooperate with representatives of the Bureau in its monitoring and

1 investigation of the respondent's compliance with probation. Respondent, within ten (10) days of
2 completion of the quarter, shall submit quarterly written reports to the Bureau on a Quarterly
3 Report of Compliance form obtained from the Bureau.

4 **3. Personal Appearances**

5 Upon reasonable notice by the Bureau, Respondent shall report to and make personal
6 appearances at times and locations as the Bureau may direct.

7 **4. Notification of Address and Telephone Number Change(s)**

8 Respondent shall notify the Bureau, in writing, within five (5) days of a change of name,
9 title, physical home address, email address, or telephone number of each person, as defined in
10 section 94855 of the Code, who owns or controls 25% or more of the stock or an interest in of the
11 institution and, to the extent applicable, each general partner, officer, corporate director, corporate
12 member or any other person who exercises substantial control over the institution's management
13 or policies.

14 **5. Notification to Prospective Students**

15 When currently soliciting or enrolling (or re-enrolling) a student for any program,
16 Respondent shall provide notification of this action to each current or prospective student prior to
17 accepting their enrollment, and to those students who were enrolled at the time of the conduct that
18 is the subject of this action as directed by the Bureau. This notification shall include a copy of the
19 Accusation, Statement of Issues, Stipulated Settlement, or Disciplinary Decision (whichever
20 applies).

21 **6. Student Roster**

22 Within 15 days of the effective date of this Decision, and with the Quarterly Reports
23 thereafter, provide to the Bureau the names, addresses, phone numbers, email addresses, and the
24 programs in which they are or were enrolled, of all persons who are currently or were students of
25 the institution within 60 days prior to the effective date of the Decision, and those students who
26 were enrolled at the time of the conduct that is the subject of this action.

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1 **7. Instruction Requirements and Limitations**

2 During probation, Respondent shall provide approved instruction in the State of California.
3 If Respondent is not providing instruction, the period of probation shall be tolled during that time.

4 **8. Record Storage**

5 Within 5 days of the effective date of this Decision, provide the Bureau with the location of
6 the repository for all records as they are required to be maintained pursuant to Title 5, California
7 Code of Regulations, section 71930.

8 **9. Maintenance of Current and Active Approval to Operate**

9 Respondent shall, at all times while on probation, maintain a current and active approval to
10 operate with the Bureau including any period during which approval is suspended or probation is
11 tolled.

12 **10. Comply With Citations**

13 Respondent shall comply with all final orders resulting from citations issued by the Bureau.

14 **11. Cost Recovery Requirements**

15 Respondent shall pay to the Bureau its costs of investigation and enforcement in the amount
16 of \$6,500.00 no later than one year before the termination of probation. Such costs shall be
17 payable to the Bureau and are to be paid regardless of whether the probation is tolled. Failure to
18 pay such costs shall be considered a violation of probation.

19 Except as provided above, the Bureau shall not renew or reinstate the approval to operate of
20 any respondent who has failed to pay all the costs as directed in a Decision.

21 **12. Violation of Probation**

22 If Respondent violates probation in any respect, the Bureau, after giving respondent notice
23 and opportunity to be heard, may revoke probation and carry out the disciplinary order which was
24 stayed. If an Accusation or a Petition to Revoke Probation is filed against respondent during
25 probation, the Bureau shall have continuing jurisdiction until the matter is final, and the period of
26 probation shall be extended, and respondent shall comply with all probation conditions, until the
27 matter is final.

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13. Future Approvals to Operate

If Respondent subsequently obtains other approvals to operate during the course of this probationary order, this Decision shall remain in full force and effect until the probationary period is successfully terminated. Future approvals shall not be granted, however, unless Respondent is currently in compliance with all of the terms and conditions of probation.

14. Comply with All Accreditation Standards

As applicable, Respondent shall comply with all standards set by its accreditor in order to maintain its accreditation. Respondent shall submit to the Bureau, in writing, a full detailed account of any and all actions taken by any accrediting agency against Respondent regarding any institution operated by Respondent, including an order to show cause, or conditions or restrictions placed on accreditation, within five (5) days of occurrence.

15. Completion of Probation

Upon successful completion of probation, Respondent's approval to operate will be fully restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, James C. Stevens. I understand the stipulation and the effect it will have on the institution's Approval to Operate an Institution Non-Accredited. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

DATED: 05/28/2019

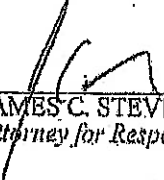
Signature: Chau Ha Suki Leung

Printed name/Title: Chau Ha Suki Leung/ CAO

Authorized agent of
AMERICAN BEAUTY INSTITUTE LLC,
DBA AMERICAN BEAUTY INSTITUTE
Respondent

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I have read and fully discussed with Respondent American Beauty Institute LLC, dba American Beauty Institute the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.


DATED: 5/28/19 
JAMES C. STEVENS
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of the Department of Consumer Affairs.

Dated: May 30, 2019

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General


MARICHELLE S. TAHIMIC
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 1003292

1 XAVIER BECERRA
Attorney General of California
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MARICHELLE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9435
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9
10 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA
12
13

14 In the Matter of the Accusation Against:

Case No. 1003292

15 **AMERICAN BEAUTY INSTITUTE LLC,**
16 **DBA AMERICAN BEAUTY INSTITUTE**
4625 Convoy St Ste A
San Diego, CA 92111

A C C U S A T I O N

17 Approval to Operate an Institution Non-
18 Accredited

19 School Code 81663192

20 Respondent.

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, Department of
26 Consumer Affairs.

27 ///

28 ///

1 includes 'certificate,' 'registration,' and 'permit.'"

2 6. Section 94938 of the Education Code (Code) states:

3 (a) If the bureau determines that it needs to make an emergency decision to
4 protect students, prevent misrepresentation to the public, or prevent the loss of
5 public funds or moneys paid by students, it may do so pursuant to Article 13
6 (commencing with Section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of
7 Title 2 of the Government Code.

8 COST RECOVERY

9 7. Section 125.3, subdivision (a), of the Code, states, in pertinent part:

10 Except as otherwise provided by law, in any order issued in resolution of a
11 disciplinary proceeding before any board within the department . . . the board may
12 request the administrative law judge to direct a licentiate found to have committed
13 a violation or violations of the licensing act to pay a sum not to exceed the
14 reasonable costs of the investigation and enforcement of the case.

15 STATUTORY AND REGULATORY PROVISIONS

16 8. Business and Professions Code section 477 states:

17 As used in this division:

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

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

22 9. Section 94893 of the Code states:

23 If an institution intends to make a substantive change to its approval to operate,
24 the institution shall receive prior authorization from the bureau. Except as
25 provided in subdivision (a) of Section 94896, if the institution makes the
26 substantive change without prior bureau authorization, the institution's approval
27 to operate may be suspended or revoked.

28 10. Section 94897 of the Code states:

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:

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...

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

...

11. Section 94900 of the Education Code states:

(a) An institution shall maintain records of the name, address, e-mail address, and telephone number of each student who is enrolled in an educational program in that institution.

(b) An institution shall maintain, for each student granted a degree or certificate by that institution, permanent records of all of the following:

(1) The degree or certificate granted and the date on which that degree or certificate was granted.

(2) The courses and units on which the certificate or degree was based.

(3) The grades earned by the student in each of those courses.

12. Section 94900.5 of the Code states in part:

An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information:

...

(b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty.

(c) Any other records required to be maintained by this chapter, including, but not limited to, records maintained pursuant to Article 16 (commencing with Section 94928).

13. Section 94902 of the Code states:

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

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

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

...

(3) Prior to the execution of the enrollment agreement, the student and the institution have signed and dated the information required to be disclosed in the Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of

1. Section 94910. Each of these items in the Student Performance Fact Sheet shall
2. include a line for the student to initial and shall be initialed and dated by the
3. student.

4. 14. Section 94906 of the Code states:

5. (a) An enrollment agreement shall be written in language that is easily
6. understood. If English is not the student's primary language, and the student is
7. unable to understand the terms and conditions of the enrollment agreement, the
8. student shall have the right to obtain a clear explanation of the terms and
9. conditions and all cancellation and refund policies in his or her primary language.

(b) If the recruitment leading to enrollment was conducted in a language other
than English, the enrollment agreement, disclosures, and statements shall be in
that language.

10. 15. Section 94911 of the Education Code states:

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

12. ...
13. (b) A schedule of total charges, including a list of any charges that are
14. nonrefundable and the student's obligations to the Student Tuition Recovery
15. Fund, clearly identified as nonrefundable charges.

16. (h) The transferability disclosure that is required to be included in the school
17. catalog, as specified in paragraph (15) of subdivision (a) of Section 94909.

18. ...
19. 16. Section 94912 of the Code states:

20. Prior to the execution of an enrollment agreement, the information required to be
21. disclosed pursuant to subdivisions (a) to (d), inclusive, of Section 94910 shall be
22. signed and dated by the institution and the student. Each of these items shall also
23. be initialed and dated by the student.

24. 17. Section 94929.7 of the Code states:

25. (a) The information used to substantiate the rates and information calculated
26. pursuant to Sections 94929 and 94929.5 shall do both of the following:

27. (1) Be documented and maintained by the institution for five years from
28. the date of the publication of the rates and information.

(2) Be retained in an electronic format and made available to the bureau
upon request. ...

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18. Title 5, California Code of Regulations (CCR), section 71650 states in part:

(a) An institution seeking to change its educational objectives shall complete the "Change in Educational Objectives" form (OBJ rev. 2/10) to obtain prior authorization. The form shall be submitted to the Bureau along with the appropriate fee as provided in Section 94930,5(c) of the Code. For an institution approved under section 94885 of the Code it shall be signed and dated by the signatory(ies) required by section 71380, and for an institution approved under section 94890 of the Code it shall be signed and dated by the signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto shall be declared to be true under penalty of perjury, in the following form:

"I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

(Date)

(Signature)

19. Title 5, CCR, section 71660 states:

An institution shall notify the Bureau of a non-substantive change including: change of location of less than 10 miles; addition of a program related to the approved programs offered by the institution; addition of a new branch five miles or less from the main or branch campus; addition of a satellite; and change of mailing address. All such notifications shall be made within 30 days of the change and sent to the Bureau, in writing, to the address listed in section 70020.

20. Title 5, CCR, section 71715 states in part:

(a) Instruction shall be the central focus of the resources and services of the institution.

...

21. Title 5, CCR, section 71720 states in part:

...

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

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

///

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

4 22. Title 5, CCR, section 71730 states in part:

5 (a) Each institution shall have a chief executive officer, a chief operating officer
6 and chief academic officer. One person may serve more than one function.

7 ...
8 (d) The administrative staffing at each branch location shall reflect the purposes,
9 size, and educational operations at that location and at any satellite location for
10 which the branch has administrative responsibilities.

11 23. Title 5, GCR, section 71745 states in part:

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

14 ...
15 (3) Maintain the minimum standards required by the Act and this chapter.

16 ...
17 (6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater
18 at the end of the most recent fiscal year when using generally accepted accounting
19 principles, or for an institution participating in Title IV of the federal Higher
20 Education Act of 1965, meet the composite score requirements of the U.S.
21 Department of Education. For the purposes of this section, current assets does
22 not include: intangible assets, including goodwill, going concern value,
23 organization expense, startup costs, long-term prepayment of deferred charges,
24 and non-returnable deposits, or state or federal grant or loan funds that are not
25 the property of the institution but are held for future disbursement for the benefit
26 of students. Unearned tuition shall be accounted for in accordance with general
27 accepted accounting principles.

28 24. Title 5, CCR, section 71750 states in part:

29 ...
30 (f) The institution shall maintain a cancellation and withdrawal log, kept current
31 on a monthly basis, which shall include the names, addresses, telephone numbers,
32 and dates of cancellations or withdrawal of all students who have cancelled the
33 enrollment agreement with, or withdrawn from, the institution during the
34 calendar year.

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25. Title 5, CCR, section 71760 states:

Each institution shall develop and maintain adequate procedures used by the institution to assure that it is maintained and operated in compliance with the Act and this Division.

26. Title 5, CCR, section 71770 states in part:

(a) The institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify as applicable that:

(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code.

27. Title 5, CCR, section 71800 states in part:

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

- (b) Period covered by the enrollment agreement.
- (c) Program start date and scheduled completion date.
- (d) Date by which the student must exercise his or her right to cancel or withdraw, and the refund policy, including any alternative method of calculation if approved by the Bureau pursuant to section 94921 of the Code.
- (e) Itemization of all institutional charges and fees including, as applicable:
 - (1) tuition;
 - (2) registration fee (non-refundable);
 - (3) equipment;
 - (4) lab supplies or kits;
 - (5) Textbooks, or other learning media;
 - (6) uniforms or other special protective clothing;
 - (7) in-resident housing;
 - (8) tutoring;

1 (9) assessment fees for transfer of credits;

2 (10) fees to transfer credits;

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

4 (12) any other institutional charge or fee.

5 ...
6 28. Title 5, CCR, section 71920 states in part:

7 (a) The institution shall maintain a file for each student who enrolls in the
8 institution whether or not the student completes the educational service.

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

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

15 (A) Verification of high school completion or equivalency or other
16 documentation establishing the student's ability to do college level work,
17 such as successful completion of an ability-to-benefit test;

18 ...
19 (5) In addition to the requirements of section 94900(b) of the Code, a transcript
20 showing all of the following:

21 (A) The courses or other educational programs that were completed, or
22 were attempted but not completed, and the dates of completion or
23 withdrawal;

24 ...
25 (9) A document showing the total amount of money received from or on behalf
26 of the student and the date or dates on which the money was received;

27 ...
28 29. Title 5, CCR, section 71930 states in part:

29 (a) An institution shall maintain all records required by the Act and this chapter.
30 The records shall be maintained in this state.

31 (b)(1) In addition to permanently retaining a transcript as required by section
32 94900(b) of the Code, the institution shall maintain for a period of 5 years the
33 pertinent student records described in Section 71920 from the student's date of
34 completion or withdrawal.

1 (e) All records that the institution is required to maintain by the Act or this chapter
2 shall be made immediately available by the institution for inspection and copying
3 during normal business hours by the Bureau and any entity authorized to conduct
4 investigations.

5 ...

6 30. Title 5, CCR, section 74112 states in part:

7 ...

8 (m) Documentation supporting all data reported shall be maintained
9 electronically by the institution for at least five years from the last time the data
10 was included in either an Annual Report or a Performance Fact Sheet and shall
11 be provided to the Bureau upon request; the data for each program shall include
12 at a minimum:

13 (1) the list of job classifications determined to be considered gainful
14 employment for the educational program;

15 (2) student name(s), address, phone number, email address, program
16 completed, program start date, scheduled completion date, and actual completion
17 date;

18 (3) graduate's place of employment and position, date employment began,
19 date employment ended, if applicable, actual salary, hours per week, and the date
20 employment was verified;

21 (4) for each employer from which employment or salary information was
22 obtained, the employer name(s) address and general phone number, the contact
23 person at the employer and the contact's phone number and email address, and
24 all written communication with employer verifying student's employment or
25 salary;

26 (5) for students who become self-employed, all documentation necessary
27 to demonstrate self-employment;

28 (6) a description of all attempts to contact each student or employer;

(7) any and all documentation used to provide data regarding license
examinations and examination results;

(8) for each student determined to be unavailable for graduation or
unavailable for employment, the identity of the student, the type of unavailability,
the dates of unavailability, and the documentation of the unavailability; and

(9) the name, email address, phone number, and position or title of the
institution's representative who was primarily responsible for obtaining the
students' completion, placement, licensing, and salary and wage data, the date
that the information was gathered, and copies of notes, letters or emails through
which the information was requested and gathered.

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31. Title 5, CCR, section 74115 states in part:

...

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

...

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

...

32. Title 5, CCR, section 76120 states:

(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).

33. Title 5, CCR, section 76140 states in part:

(a) A qualifying institution shall collect and maintain records of student information to substantiate the data reported on the STRF Assessment Reporting Form and records of the students' eligibility under the Fund. Such records shall include the following for each student:

(1) Student identification number,

(2) First and last names,

(3) Email address,

(4) Local or mailing address,

(5) Address at the time of enrollment,

(6) Home address,

(7) Date enrollment agreement signed,

(8) Courses and course costs,

(9) Amount of STRF assessment collected,

(10) Quarter in which the STRF assessment was remitted to the Bureau,

(11) Third-party payer identifying information,

(12) Total institutional charges charged, and

(13) Total institutional charges paid. ...

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FACTS

34. On or about February 27, 2018, the Bureau received notification from Respondent, pursuant to Code section 94934.5, that Respondent had been cited by the California Board of Barbering and Cosmetology (BBC) for insufficient equipment for the educational programs they offered. Respondent stated that they had the required equipment, but it was currently in storage on site.

35. The Bureau's investigator obtained a copy of BBC's citation and BBC's December 5, 2017, inspection report. The inspection report noted that an instructor was using the Esthetics classroom to teach and provide microblading. As of March 7, 2018, Respondent had approval to offer courses in Barbering, Cosmetology, Esthetician, Manicurist, and Massage Therapy. Respondent is not currently, nor ever has been, approved to offer an educational program in Microblading.

36. On or about April 18, 2018, Respondent's website advertised that the school offered the following programs: Makeup, Cosmetology, Barbering, Esthetician, Massage Therapy, Eyelash Extension and Microblading. Respondent is not currently, nor ever has been, approved to offer courses in Makeup and Eyelash Extensions. In addition, Respondent did not have a pending application for a Change in Educational Objectives in order to add educational programs in Makeup, Eyelash Extensions and Microblading.

37. Respondent's website also stated:

Get Licensed

As a graduate of the American Beauty Institute Cosmetology, Esthetician, Manicure, Barbering, or Massage program you will be fully prepared and eligible for the state licensing examination.

Respondent advertised that a graduate from its massage program would be eligible for state licensure. However, there is no state license exam for Massage Therapy. As such, this is an untrue statement and misleading statement.

38. Respondent's 2017 financial statements, which were submitted to Bureau with its 2016 Annual Report indicated Respondent had total current assets of \$890 and total current

1 liabilities of \$5,255, equating to a current assets-to-liabilities ratio of .17 to 1.00. An institution is
2 required to have an assets-to-liabilities ratio of 1.25 (or greater) to 1.00.

3 39. On April 25, 2018, Investigators from the Bureau conducted a field investigation of
4 Respondent school. When the investigators arrived, there were no instructors present although
5 there were four students present. A student was providing an eyelash service for a member of the
6 public. Approximately 30 minutes later, another customer arrived. There was still no instructor
7 or school administrator on site. Respondent allowed students access to the school hours before
8 instructors arrived in order for students to provide lash services and facials to clients or to
9 participate in self-directed study because of the lack of instructors available.

10 40. At 11 a.m., S.L., the School Director arrived on Site. S.L. stated she is also the
11 Esthetics class instructor. S.L. advised that C.W., the Director of Admissions, was on his way to
12 the school. S.L. stated that the school did not have a Chief Executive Officer (CEO) or a Chief
13 Operating Officer (COO). S.L. sometimes acted as the Chief Academic Officer (CAO), S.L. was
14 unclear as to the role of any of these positions. S.L. also stated that Respondent did not have any
15 self-monitoring procedures and was unclear as to what they would be. In addition, Respondent
16 was not using the required BBC curriculum to teach students. S.L. stated that Respondent does
17 not maintain SPFS or STRF backup documentation, which is a record that is required to be
18 maintained.

19 41. At the time of the site visit in April, 2018, Respondent offered programs in
20 Cosmetology, Manicuring, Esthetician, Barbering, and Massage Therapy although Respondent
21 did not currently have an instructor for the Barbering program and was enrolling students in the
22 Massage Therapy program.

23 42. Respondent offered prospective students a 10-day trial period to attend classes.
24 Respondent would collect a \$500 deposit from the student at the beginning of the trial period. If
25 the student wanted to continue to attend classes at the end of the trial period, the student would
26 sign an enrollment agreement and provide admissions documents to Respondent. On occasion,
27 Respondent will allow a student who had not paid the deposit to have the trial period. But in
28

1 these cases, the student was not allowed to accumulate hours while in attendance. Respondent did
2 not keep records of the students who attended the trial period and then chose not to enroll.

3 43. Respondent recruited and enrolled Chinese and Spanish speaking students without the
4 Bureau's approval to teach in a language other than English. Respondent recruited and enrolled
5 Chinese and Spanish speaking students without an Enrollment Agreement or other required
6 disclosures in any language other than English.

7 44. The Bureau's investigator reviewed the student file of the Chinese-speaking student.
8 The file contained only a receipt for the full tuition payment, a breakdown of tuition charges and
9 a copy of the student's time card.

10 45. Additionally, Respondent advertised that it collected fees for the Student Tuition
11 Recovery Fund in excess of the current assessment rate of \$0.00.

12 46. The Bureau's Compliance Inspector, M.A., requested faculty files to review. S.L.
13 stated Respondent did not have faculty files, but provided a list of faculty. Respondent did not
14 require continuing education for its instructors.

15 47. M.A. also requested the student files of current, withdrawn, and graduated students to
16 review. S.L. stated that due to the school's trial period, Respondent did not have withdrawn
17 student files. Furthermore, Respondent did not have a student roster. M.A. reviewed a sampling
18 of the student files of current and graduated students.

19 **Review of Student Files:**

20 48. Student files were deficient as follows:

21 a. The student files did not contain a signed and dated SPFS. [Student files of C.N.,
22 S.V., V.V., Y.G., L.P., B.D., K.L.]

23 b. The student files contained an Enrollment Agreement that did not identify the total
24 charges the student was obligated to pay. [Student files of C.N., S.V., V.V., B.D., K.L., L.P.]

25 c. The student files did not contain proof of a High School Diploma, GED, or ATB
26 demonstrating that the student was qualified for admission to the program. [Student files of C.N.,
27 S.V., V.V., Y.G., K.L.]

28 ///

- 1 d. The student files contained an Enrollment Agreement that did not identify the STRF
2 Assessment charges. [Student files of C.N., S.V., V.V., L.P., B.D., K.L.]
- 3 e. The student files contained an Enrollment Agreement that did not identify the period
4 covered by the Enrollment Agreement. [Student files of C.N., S.V., V.V., L.P., B.D.]
- 5 f. The student files contained an Enrollment Agreement that did not identify the
6 program completion date. [C.N., S.V., L.P., B.D.]
- 7 g. The student files did not contain a document showing the total amount of money
8 received by or on behalf of student. [Student files of C.N., V.V., Y.G., S.V., L.P., B.D., K.L.]
- 9 h. The student files contained an Enrollment Agreement that failed to contain a
10 signature from an authorized representative of the institution. [Student files of S.V., V.V., L.P.,
11 B.D., K.L.]
- 12 i. The student file of V.V. contained a Proof-Of-Training (POT) document that
13 reflected an untrue statement with a student signature and a signature from an authorized
14 representative of the institution for a completion date in the future.
- 15 j. The student file of V.V. contained an Enrollment Agreement that failed to identify the
16 date by which the student must exercise their right to cancel.
- 17 k. The student file of Y.G. failed to contain an Enrollment Agreement.
- 18 l. The student files did not contain a transcript showing the courses that were
19 completed, or attempted and not completed. [Student files of L.P., B.D., K.L.]
- 20 m. The student files contained an Enrollment Agreement where the required disclosure
21 regarding transferability of credits was missing program information. [Student files of L.P., B.D.,
22 K.L.]
- 23 n. The student file of B.D. contained an Enrollment Agreement that failed to identify the
24 date by which the student must exercise their right to cancel.
- 25 **STRF Assessment Reporting Form:**
- 26 49. As of May 10, 2018, Respondent had not submitted their First Quarter 2016 and 4th
27 Quarter 2016 STRF Assessment Reporting Forms.
- 28 ///

1 **Annual Report:**

2 50. Respondent's 2016 Annual Report submitted to the Bureau contained information
3 that did not match the information reported on the 2015/2016 SPFS as follows:

4 a. The 2016 Annual Report stated eight students completed the Manicurist program on
5 time. The 2015/2016 SPFS stated three students completed the program on time for the same
6 time period.

7 b. The 2016 Annual Report stated three students completed the Esthetician program on
8 time. The 2015/2016 SPFS stated zero students completed the program on time for the same time
9 period.

10 **Issuance of Emergency Decision:**

11 51. Following the Bureau's investigation and because of the threat of an immediate
12 danger to the public, the Bureau, pursuant to its authority under Code section 94938 and title 5,
13 CCR, section 75150, issued an emergency decision effective on August 27, 2018. The
14 emergency decision ordered Respondent to: (1) cease enrollment of any new students in all
15 programs and (2) cease the collection of tuition and fees for all institutional programs.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Engaging in Prohibited Business Practice)**

18 52. Respondent is subject to disciplinary action under Code section 94897(j) for engaging
19 in prohibited business practices by making an untrue or misleading statement related to a record
20 indicating student completion or other document required by the Bureau, as follows and as more
21 fully set forth in paragraphs 34-51 above and incorporated herein:

22 a. The student completion rates in the 2016 Annual Report submitted to the Bureau
23 contained information that did not match the information reported on the 2015/2016 SPFS
24 regarding the number of students who completed the Manicuring and Esthetician programs on
25 time, as set forth in paragraphs 34-51 above, and incorporated herein as though set forth in full.

26 b. The student file of V.M. contained a Proof of Training document with an untrue
27 statement. The document stated V.M. completed the program on May 30, 2018, and completed
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1 600 hours of training. However, the document was signed by the student and a school
2 representative in April, 2018, prior to the completion of 600 hours.

3 c. Respondent's website stated that its Massage Therapy program will lead to state
4 licensure but there is not a state license for Massage Therapy.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unapproved Programs)**

7 53. Respondent is subject to disciplinary action under Code section 94893 and title 5,
8 CCR, section 71650(a), in that Respondent offered programs without receiving prior
9 authorization from the Bureau in that Respondent advertised and offered a Microblading program
10 as more fully set forth in paragraphs 34-51 above and incorporated herein.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Notification of Non-Substantive Change)**

13 54. Respondent is subject to disciplinary action under title 5, CCR, section 71660 for
14 failing to notify the Bureau of a non-substantive change such as the addition of a program related
15 to the approved programs offered by it within 30 days of the change. Respondent advertised the
16 Makeup and Eyelash Extensions programs, which were unapproved, without notifying the Bureau
17 and receiving prior approval, as more fully set forth in paragraphs 34-51 above and incorporated
18 herein.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Failure to Meet Minimum Operating Standards - Instruction)**

21 55. Respondent is subject to disciplinary action under title 5, CCR, section 71715(a) in
22 that instruction was not the central focus of the resources and services of the institution in that
23 students provided services to customers without instructor supervision and students engaged in
24 self-study due to the unavailability of instructors, as more fully set forth in paragraphs 34-51
25 above and incorporated herein.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Meet Minimum Operating Standards - Faculty)**

3 56. Respondent is subject to disciplinary action under title 5, CCR, section 71720(b)(1)
4 and (b)(2) in that Respondent was unable to demonstrate that it had instructors who possessed the
5 academic, experiential and professional qualifications to teach, including a minimum of three
6 years of experience, education and training in current practices of the subject area they are
7 teaching, as set forth below and as more fully set forth in paragraphs 34-51 above and
8 incorporated herein:

9 a. Respondent advertised and offered a Barbering program but did not have any faculty
10 member for the program.

11 b. Respondent was unable to provide any faculty files that demonstrated that they
12 employed qualified instructors.

13 c. Respondent did not have the administrative staff that reflected the purpose, size and
14 educational operations of its location.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Failure to Meet Minimum Operating Standards - Administration)**

17 57. Respondent is subject to disciplinary action under title 5, CCR, section 71730(a) and
18 (d) in that Respondent failed to have a CEO or a COO and failed to have administrative personnel
19 who were able to access student files and administrative records. Moreover, Respondent did not
20 have an administrative representative that could assist students who wished to make payments,
21 enroll in the institution, or withdraw from the institution during posted normal business hours, as
22 more fully set forth in paragraphs 34-51 above and incorporated herein.

23 **SEVENTH CAUSE FOR DISCIPLINE**

24 **(Failure to Meet Minimum Operating Standards - Self-Monitoring Procedures)**

25 58. Respondent is subject to disciplinary action under title 5, CCR, section 71760 in that
26 Respondent failed to develop and maintain adequate procedures used by the institution to assure
27 that it is maintained and operated in compliance with the Act and the Bureau's regulations, as
28 more fully set forth in paragraphs 34-51 above and incorporated herein.

1 EIGHTH CAUSE FOR DISCIPLINE

2 (Failure to Meet Minimum Operating Standards – Financial Resources)

3 59. Respondent is subject to disciplinary action under title 5, CCR, sections 71745(a)(3)
4 and (a)(6) and section 74115(b)(3), for failure to document that it has at all times sufficient assets
5 and financial resources to maintain the minimum operating standards as set forth below and as
6 more fully set forth in paragraphs 34-51 above and incorporated herein.

7 60. Respondent provided its 2017 Financial Statements as part of the 2016 Annual Report
8 showing current assets to liabilities ratio was .17 to 1.00, rather than the required 1:25 (or greater)
9 to 1.00.

10 NINTH CAUSE FOR DISCIPLINE

11 (Failure to Meet Minimum Operating Standards – Language of Enrollment Agreement)

12 61. Respondent is subject to disciplinary action under Code section 94906(a) and (b), for
13 failing to meet the minimum operating standards pertaining to enrollment agreements, in that
14 Respondent enrolled students whose primary language was not English but did not provide an
15 enrollment agreement, school catalog, the SPFS or any required disclosure in the student's
16 primary language, as more fully set forth in paragraphs 34-51 above and incorporated herein

17 TENTH CAUSE FOR DISCIPLINE

18 (Failure to Meet Minimum Operating Standards – General Enrollment Agreement
19 Requirements)

20 62. Respondent is subject to disciplinary action under Code sections 94902(a), (b)(1),
21 (b)(3), 94911(b) and (h), and 94912, and title 5, CCR, sections 71800(b), (c), (d), and (e)(1-12),
22 for failing to meet the minimum operating standards pertaining to enrollment agreements, as set
23 forth below and as more fully set forth in paragraphs 34-51 above and incorporated herein:

24 a. Respondent allowed students to attend school for up to ten days on a trial basis for a
25 \$500 deposit without a signed enrollment agreement.

26 b. The student files of S.V., V.M., Y.G., T.P. B.D. and K.L. contained enrollment
27 agreements that were not signed by an authorized representative of the school.

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1 c. The student files of C.N., S.V., V.M., Y.B., L.P., B.D. and K.L. did not contain
2 documentation that the student was provided with an SPFS prior to enrollment and that the
3 student signed and dated an SPFS prior to enrollment.

4 d. The student files for C.N., S.V., V.M., Y.G., L.P., B.D., and K.L. contained an
5 Enrollment Agreement that failed to identify the total charges the student was obligated to pay.

6 e. The student files for C.N., S.V., V.M., Y.G., L.P., B.D., and K.L. contained an
7 Enrollment Agreement that did not identify STRF Assessment fees.

8 f. The student files for L.P., B.D., and K.L. contained an Enrollment Agreement lacking
9 program information in the required disclosure regarding transferability of credits.

10 g. The student files for C.N., S.V., V.M., L.P., and B.D. contained an Enrollment
11 Agreement that failed to identify the period covered by the Enrollment Agreement.

12 h. The student files for C.N., S.V., L.P., and B.D. contained an Enrollment Agreement
13 that failed to identify the program start date and scheduled completion date.

14 i. The student files for V.M., and B.D. contained an Enrollment Agreement that failed
15 to identify the date by which the student must exercise their right to cancel.

16 **ELEVENTH CAUSE FOR DISCIPLINE**

17 (Failure to Meet Minimum Operating Standards – Student Records)

18 63. Respondent is subject to disciplinary action under Code sections 94900(a) and (b)(1)-
19 (3) and title 5, CCR, section 719209(b)(9), for failing to meet the minimum operating standards
20 pertaining to maintenance of student records, as set forth below and as more fully set forth in
21 paragraphs 34-51 above and incorporated herein:

22 a. Respondent was unable to provide documentation that of the name, address, e-mail
23 address and telephone number of each student who was enrolled at the institution. Respondent
24 allowed students to attend school for up to ten days without officially enrolling. If the student
25 decides they do want to continue on, Respondent will not fill out paperwork indicating their
26 attendance.

27 b. Respondent does not maintain transcripts for graduates or withdrawn students.

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1 c. The student files for L.P., B.D., and K.L. did not contain a copies of the certificate
2 earned or transcripts demonstrating the certificate earned, the courses attended or the grades
3 received.

4 d. Respondent did not keep records of the certificates awarded, the courses attended on
5 which the certificate was based, and the grades for those courses.

6 e. The student files for C.N., S.V., V.M., Y.G., L.P., B.D., and K.L. did not contain a
7 document showing total amount of money received by or on behalf of student.

8 **TWELFTH CAUSE FOR DISCIPLINE**

9 **(Failure to Meet Minimum Operating Standards – Institutional Records)**

10 64. Respondent is subject to disciplinary action under Code section 94900.5(b) and (c)
11 for failing to meet the minimum operating standards pertaining to maintenance of institutional
12 records, as set forth below and as more fully set forth in paragraphs 34-51 above and incorporated
13 herein:

14 a. Respondent was unable to provide a list of the names and addresses of the members
15 of the faculty as well as the educational qualifications for all currently employed faculty.

16 b. Respondent does not maintain SPFS or STRF backup documentation.

17 **THIRTEENTH CAUSE FOR DISCIPLINE**

18 **(Failure to Meet Minimum Operating Standards – Withdrawals and Refunds)**

19 65. Respondent is subject to disciplinary action under title 5, CCR, sections 71750(f) for
20 failing to maintain a cancellation and withdrawal log, that includes the names, addresses,
21 telephone numbers, and dates of cancellations or withdrawal of all students who have cancelled
22 the enrollment agreement with, or withdrawn from, the institution during the calendar year, as
23 more fully set forth in paragraphs 34-51 above and incorporated herein:

24 **FOURTEENTH CAUSE FOR DISCIPLINE**

25 **(Failure to Meet Minimum Operating Standards – Admissions Standards)**

26 66. Respondent is subject to disciplinary action under title 5, CCR, sections 71770(a)(1)
27 and section-71920(b)(1)(A), and (b)(5)(A), for failing to maintain verification of high school
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1 completion or equivalency, or other records and transcripts of any formal education or training, as
2 set forth below and as more fully set forth in paragraphs 34-51 above and incorporated herein:

3 a. The student files of C.N., S.V., V.M., Y.G., and K.L. did not contain proof of High
4 School Diploma, GED, or Ability to Benefit. Respondent did not verify that a student would
5 have a reasonable prospect of completing the program by verifying that the student possessed the
6 equivalent of a High School Diploma.

7 b. The student files of L.P., B.D., and K.L. did not contain a copy of the certificate or
8 transcript demonstrating the certificate earned, the courses attended or the grades received.
9 Respondent failed to keep records of the certificates awarded, the courses attended on which the
10 certificate was based and the grades for those courses.

11 FIFTEENTH CAUSE FOR DISCIPLINE

12 (Failure to Meet Minimum Operating Standards – Maintenance of Records)

13 67. Respondent is subject to disciplinary action under title 5, CCR, sections 71930(a) and
14 (b)(1), (e), for failing to maintain required institutional records and failing to have faculty files
15 immediately available for inspection, as set forth below and as more fully set forth in paragraphs
16 34-51 above and incorporated herein:

17 a. Respondent did not maintain SPFS backup documentation, which is a record that is
18 required to be maintained.

19 b. Respondent does not maintain STRF backup documentation, which is a record that is
20 required to be maintained.

21 c. Respondent failed to provide faculty files for all faculty that are currently employed,
22 which is a record that is required to be maintained.

23 d. Respondent did not maintain student files for each student who attended school.

24 e. Respondent failed to demonstrate that it maintained records of the name, address, e-
25 mail address and telephone number of each student enrolled at the institution.

26 f. The student files of L.P., B.D., and K.L. did not contain a copy of the certificate or
27 transcript demonstrating the certificate earned, the courses attended or the grades received.
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1 Respondent did not keep records of the certificates awarded, the courses attended on which the
2 certificate was based and the grades for those courses, as required.

3 g. Respondent was unable to provide all faculty files when requested.

4 **SIXTEENTH CAUSE FOR DISCIPLINE**

5 (School Performance Fact Sheet)

6 68. Respondent is subject to disciplinary action under Code section 94929.7(a)(1) and
7 (2), and title 5, CCR, section 74112(m)(1) - (9), for failing to maintain information used to
8 substantiate the rates and information provided in the SPFS, in that Respondent did not maintain
9 any SPFS backup documentation to substantiate the information reported in the Annual Report or
10 the SPFS. Respondent failed to provide proof that it attempted to collect all of the information
11 required to be recorded to substantiate the information on the 2015/2016 SPFS, as more fully set
12 forth in paragraphs 34-51 above and incorporated herein.

13 **SEVENTEENTH CAUSE FOR DISCIPLINE**

14 (Amount of Student Tuition Recovery Fund)

15 69. Respondent is subject to disciplinary action under title 5, CCR, section 76120(a) and
16 for collect an assessment for the STRF in excess of the current assessment rate in that the tuition
17 breakdown provided by Respondent to its students lists an STRF assessment in excess of \$0.00,
18 which is the current assessment rate, as more fully set forth in paragraphs 34-51 above and
19 incorporated herein.

20 **EIGHTEENTH CAUSE FOR DISCIPLINE**

21 (Student Tuition Recovery Fund – Recordkeeping Requirements)

22 70. Respondent is subject to disciplinary action under title 5, CCR, section 76140(a)(1)-
23 (13) for failing to maintain STRF backup documentation as required to substantiate the
24 information reported on the STRF Assessment Forms submitted to the Bureau, as more fully set
25 forth in paragraphs 34-51 above and incorporated herein.

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PRAYER

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

1. Revoking or suspending the Approval to Operate an Institution Non-Accredited 81663192, issued to American Beauty Institute LLC, dba American Beauty Institute;
2. Ordering Chau Ha Suki Leung to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and Code section 94937(e); and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/27/12



DR. MICHAEL MARION, JR.
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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