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

12
13 In the Matter of the Statement of Issues
Against:

Case No. 1005411

14 **STOCKTON BARBER COLLEGE,**
15 **DANIEL THAI, OWNER**

STATEMENT OF ISSUES

16 **Applicant for Renewal of Approval to**
Operate and Offer Educational Programs
17 **for Non-Accredited Institutions**

18 **School Code 3900121**

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

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

26 2. On or about July 10, 2018, the Bureau for Private Postsecondary Education (the
27 Bureau) received an application for Renewal of Approval to Operate and Offer Educational
28 Programs for Non-Accredited Institutions from Daniel Thai, Owner, Stockton Barber College

1 (Respondent). On or about July 8, 2018, Daniel Thai certified under penalty of perjury to the
2 truthfulness of all statements, answers, and representations in the application. After follow-up
3 correspondence between Respondent and the Bureau regarding the application, and a Quality
4 Onsite Review of Respondent’s institution conducted by Bureau Senior Education Specialists, the
5 Bureau denied the application on November 12, 2019.

6 **JURISDICTION**

7 3. This Statement of Issues is brought before the Director of the Department of
8 Consumer Affairs (Director) for the Bureau, under the authority of the following laws. All
9 section references are to the Education Code (Code) unless otherwise indicated.

10 4. Section 94891, subdivision (b), of the Code provides, in pertinent part: “To be
11 granted a renewal of an approval to operate, the institution shall demonstrate its continued
12 capacity to meet the minimum operating standards.”

13 5. California Code of Regulations (CCR), title 5, section 71700, states: “The Bureau
14 may request that an institution document compliance with the standards set forth in the Act and
15 this Division to obtain and maintain an approval to operate.”

16 **STATUTORY PROVISIONS**

17 6. Section 94837 of the Code states:

18 ‘Educational program’ means a planned sequence composed of a single course or module,
19 or set of related courses or modules, that provides education, training, skills, or experience, or a
combination of these.

20 7. Section 94875 of the Code provides, in pertinent part:

21 In exercising its powers, and performing its duties, the protection of the public shall be the
22 bureau's highest priority. If protection of the public is inconsistent with other interests sought to
23 be promoted, the protection of the public shall be paramount.

24 8. Section 94885 of the Code states:

25 The bureau shall, by January 1, 2011, adopt by regulation minimum operating standards
26 for an institution that shall reasonably ensure that all of the following occur:

27 (a) The content of each educational program can achieve its stated objective.

28 (b) The institution maintains specific written standards for student admissions for each

educational program and those standards are related to the particular educational program.

(c) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals.

(d) The institution maintains a withdrawal policy and provides refunds.

(e) The directors, administrators, and faculty are properly qualified.

(f) The institution is financially sound and capable of fulfilling its commitments to students.

(g) That, upon satisfactory completion of an educational program, the institution gives students a document signifying the degree or diploma awarded.

(h) Adequate records and standard transcripts are maintained and are available to students.

(i) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.

9. Section 94886 of the Code provides, in pertinent part, that “a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter.”

10. Section 94887 of the Code states:

An approval to operate shall be granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the bureau, that the applicant has the capacity to satisfy the minimum operating standards. The bureau shall deny an application for an approval to operate if the application does not satisfy those standards.

11. Section 94904 of the Code states:

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

(b) If the United States Department of Education does not have a list of relevant examinations that pertain to the intended occupational training, the bureau may publish its own list of acceptable examinations and required passing scores.

(c) The bureau shall, on or before July 1, 2016, review the list of examinations prescribed by the United States Department of Education. If the bureau determines there is no examination

1 on the list appropriate for ability-to-benefit students with limited English proficiency, the bureau
2 shall approve an alternative examination for these students. When approving the alternative
examination, the bureau may consider the Comprehensive Adult Student Assessment System
examination.

3 12. Section 94910 of the Code provides, in pertinent part:

4 Prior to enrollment, an institution shall provide a prospective student with a School
5 Performance Fact Sheet containing, at a minimum, the following information, as it relates to the
educational program:

6 ...

7 (c) License examination passage rates for programs leading to employment for which
8 passage of a state licensing examination is required, as calculated pursuant to Article 16
(commencing with Section 94928).

9 **REGULATORY PROVISIONS**

10 13. CCR, title 5, section 70000, subdivision (q) provides, in pertinent part:

11 (q) 'Mission' means an institution's stated educational reasons to exist. A mission
12 statement contains all of the following characteristics:

13 (1) The mission includes the institution's broad expectations concerning the education that
14 students will receive, including the acquisition of the body of knowledge presented in the
educational program, the development of intellectual, analytical, and critical abilities, and the
15 fostering of values such as a commitment to pursue lifelong learning; and

16 (2) The mission relates to the educational expectations of the institution's students, faculty
17 and community that the institution serves.

18 14. CCR, title 5, section 71475, subdivision (t), provides, in pertinent part:

19 In addition, the institution shall list in the application, the following for each educational
20 program offered unless there have been no substantive changes since the last submission. If there
have been no substantive changes made the institution may so state and is not required to provide
21 documentation.

22 (1) The admissions requirements, including minimum levels of prior education, preparation,
or training;

23 (2) If applicable, information regarding the ability-to-benefit examination as required by
24 section 94904 of the Code.

25

26 (4) The title of the educational programs and other components of instruction offered,
including a description of the level of the courses (e.g., below college level, undergraduate level,
27 graduate level);

28 ...

1 15. CCR, title 5, section 71710 provides, in pertinent part:

2 In order to meet its mission and objectives, the educational program defined in section
3 94837 of the Code shall be comprised of a curriculum that includes:

4 (a) those subject areas that are necessary for a student to achieve the educational objectives
5 of the educational program in which the student is enrolled;

6 (b) subject areas and courses or modules that are presented in a logically organized manner
7 or sequence to students;

8 (c) course or module materials that are designed or organized by duly qualified faculty. For
9 each course or module, each student shall be provided with a syllabus or course outline that
10 contains:

11 (1) a short, descriptive title of the educational program;

12 (2) a statement of educational objectives;

13 (3) length of the educational program;

14 (4) sequence and frequency of lessons or class sessions;

15 (5) complete citations of textbooks and other required written materials;

16 (6) sequential and detailed outline of subject matter to be addressed or a list of skills to be
17 learned and how those skills are to be measured;

18 (7) instructional mode or methods.

19 ...

20 (e) specific learning outcomes tied to the sequence of the presentation of the material to
21 measure the students' learning of the material; and

22 (f) evaluation by duly qualified faculty of those learning outcomes.

23 16. CCR, title 5, section 71715 provides, in pertinent part:

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

25 (b) The institution shall document that the instruction offered leads to the achievement of
26 the learning objectives of each course.

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1 17. CCR, title 5, section 71770 provides, in pertinent part:

2 (a) The institution shall establish specific written standards for student admissions for each
3 educational program. These standards shall be related to the particular educational program. An
4 institution shall not admit any student who is obviously unqualified or who does not appear to
5 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:

6 (1) Each student admitted to an undergraduate degree program, or a diploma program, shall
7 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.

8 **FACTUAL BACKGROUND**

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10 18. Respondent's application was received by the Bureau on July 10, 2018, along with
11 the application fee. On July 17, 2018, the Bureau mailed a letter to Respondent indicating the
12 application was incomplete. The Bureau received a written response from Respondent on
13 January 10, 2019. On February 15, 2019, the Bureau mailed a letter to Respondent outlining
14 deficiencies in the following areas of the application: Exemplars of Student Agreements,
15 Financial Resources and Statements, Libraries and Other Learning Resources, and Catalog.
16 Following further communication from Respondent on March 15, 2019, the Bureau mailed
17 another letter dated May 8, 2019, to Respondent outlining deficiencies in the following areas of
18 the application: Exemplars of Student Agreements, Libraries and Learning Resources, and
19 Catalog. On June 7, 2019, the Bureau received another letter from Respondent.

20 19. On August 15, 2019, the Bureau wrote to Respondent outlining continued
21 deficiencies in the following areas of the application: Instruction and Degrees Offered,
22 Description of Educational Program, and Faculty and Additional Information (regarding Ability-
23 To-Benefit (ATB) examinations). The letter also stated that Respondent's institution would be
24 visited by Senior Education Specialists the following week. On August 28, 2019, Senior
25 Education Specialists visited Respondent's institution in order to conduct a Quality Onsite
26 Review, assessing the institution's renewal application components in person. On September 12,
27 2019, the Bureau received a follow-up email from Respondent addressing the following sections
28 of the application: Instruction and Degrees Offered, Description of Educational Program, and

1 Faculty and Additional Information (regarding ATB examinations). On November 12, 2019, the
2 Bureau denied Respondent's application.

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 (Educational Program Instruction Deficiencies)

5 20. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
6 herein.

7 21. Respondent's application is subject to denial under CCR, title 5, section 71710,
8 subdivision (a) and section 71715, subdivision (a), in that Respondent's students attend to
9 "practice" their barbering skills, without documented adequate instruction to develop those skills.
10 Without standard-length, scheduled lectures and instruction covering the span of necessary
11 subject areas, the underdeveloped curriculum results in instruction no longer being the central
12 focus of the resources and services of Respondent's institution.

13 **SECOND CAUSE FOR DENIAL OF APPLICATION**

14 (Failure to Identify Admissions Requirements)

15 22. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
16 herein.

17 23. Respondent's application is subject to denial under CCR, title 5, section 71475,
18 subdivision (t)(1) and (2), and section 71770, subdivision (a)(1), in that:

19 (1) Respondent states that the institution will not be admitting Ability-to-Benefit
20 (ATB) students, but also states that all prospective students who have not completed High
21 School must take an ATB examination prior to enrollment. Therefore, Respondent has not
22 clearly identified its admissions requirements regarding ATB students.

23 (2) Respondent states that students can be "18 years old or finished high school"
24 (not requiring a high school diploma or equivalent for individuals over 18 years old) and
25 states that Respondent "recommends the completion of high school or its equivalent prior to
26 enrolling" rather than requiring it. These statements do not comply with the regulatory
27 requirement that enrolling students possess a high school diploma or equivalent. 28

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1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 (Failure to Provide Components of Instruction Offered)

3 24. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
4 herein.

5 25. Respondent’s application is subject to denial under CCR, title 5, section 71475,
6 subdivision (t)(4), and section 71715, subdivision (b), in that Respondent failed to complete the
7 “Instruction and Degrees Offered “ section of the application and/or failed to document whether
8 the components of instruction lead to the achievement of learning objectives.

9 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

10 (Examination Pass Rates)

11 26. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
12 herein.

13 27. Respondent's application is subject to denial under Code section 94910, subdivision
14 (c), and CCR, title 5, section 71715, subdivision (b), in that Respondent provided the Bureau with
15 information showing (1) very low student examination pass rates for January 2017 - August 2019,
16 and (2) many graduates are not attaining licensure after repeated examination attempts.
17 Additionally, student examination pass rates reported on the 2017 and 2018 School Performance
18 Fact Sheet appear to be higher than those documented by the Board of Barbering and
19 Cosmetology. Therefore, Respondent’s instruction is not sufficiently leading to the achievement
20 of student learning objectives.

21 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

22 (Description of Educational Program)

23 28. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
24 herein.

25 29. Respondent’s application is subject to denial under CCR, title 5, section 71710,
26 subdivisions (a), (b), and (c), in that Respondent failed to sufficiently complete the “Description
27 of Educational Program” section of the application, failing to demonstrate that the learning, skills
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1 and other competencies to be acquired by the students who complete Respondent’s barbering
2 program will enable graduates to achieve the objectives of Respondent’s educational program.

3 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

4 (Educational Program Curriculum Deficiencies)

5 30. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
6 herein.

7 31. Respondent’s application is subject to denial under CCR, title 5, section 71710,
8 subdivision (c), in that Respondent has failed to provide curriculum for the barbering program,
9 that has been designed or organized by duly qualified faculty.

10 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

11 (Educational Program Instruction Deficiencies)

12 32. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
13 herein.

14 33. Respondent’s application is subject to denial under CCR, title 5, section 71710,
15 subdivisions (e) and (f), and section 71715(b), in that Respondent’s specific learning outcomes
16 for its barbering program are not tied to the sequence of the presentation of material. There is no
17 documentation regarding schedules of lectures or planned learning activities, as opposed to
18 student’s practicing or “progressing” at their own pace, thus producing the effect of student’s
19 attempting to develop skills without structure or strategic guidance. Learning outcomes are
20 therefore not sufficiently measured, evaluated, and/or achieved.

21 **PRAYER**

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

25 1. Denying the application of Stockton Barber College, Daniel Thai, Owner for a
26 Renewal of Approval to Operate an Institution Non-Accredited;

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2. Taking such other and further action as deemed necessary and proper.

DATED: "4/3/2020"

"Original signature on file"
DR. MICHAEL MARION, JR.
Chief
Bureau for Private Postsecondary
Education
Department of Consumer Affairs
State of California
Complainant

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