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

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

In the Matter of the Accusation Against: **SOUTH BAYLO UNIVERSITY,** **DBA SOUTH BAYLO UNIVERSITY** **SCHOOL OF ORIENTAL MEDICINE,** **1126 N Brookhurst St** **Anaheim, CA 92801** **Approval to Operate No. 3004561** Respondent.	Case No. 999965 **FIRST AMENDED** **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Dr. Michael Marion, Jr. (Complainant) brings this First Amended Accusation solely in his official capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs.

2. On or about March 6, 1986, the California State Department of Education, Private Postsecondary Education Division (CSDE), issued a Provisional Approval to South Baylo University to offer an Acupuncture program. South Baylo University received course approval to offer acupuncture from CSDE on April 24, 1987. On January 1, 1995, the Bureau for Private

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Postsecondary and Vocational Education[1] (hereinafter "BPPVE") issued an approval to operate South Baylo University, dba South Baylo University School of Oriental Medicine (Respondent). In 1998, BPPVE approved Respondent to offer a Bachelor of Science in Acupuncture and Oriental Medicine, and in June 1999, the program title was changed to Bachelor of Science Holistic Science (BSHS).

JURISDICTION

3. This First Amended Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau under the authority of the following laws. All section references are to the Education Code unless otherwise indicated.

4. Education Code (Code) section 94932 states:

> The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to 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.

5. Code section 94933 states:

> The bureau shall provide an institution with the opportunity to remedy noncompliance, impose fines, place the institution on probation, or suspend or revoke the institution's approval to operate, in accordance with this article, as it deems appropriate based on the severity of an institution's violations of this chapter, and the harm caused to students.

6. Code section 94937 states:

> (a) As a consequence of an investigation, which may incorporate any materials obtained or produced in connection with a compliance inspection, and upon a finding that an institution has committed a violation, the bureau may place an institution on probation or may suspend or revoke an institution's approval to operate for:
>
> (1) Obtaining an approval to operate by fraud.
>
> (2) A material violation or repeated violations of this chapter or

[1] The former Bureau for Private Postsecondary and Vocational Education sunsetted on July 1, 2007. On October 11, 2009, the Bureau for Private Postsecondary Education Act of 2009 (AB 48) was signed into law. The Act, which became operative on January 1, 2010, established the Bureau for Private Postsecondary Education).

regulations adopted pursuant to this chapter that have resulted in harm to students. For purposes of this paragraph, "material violation" includes, but is not limited to, misrepresentation, fraud in the inducement of a contract, and false or misleading claims or advertising, upon which a student reasonably relied in executing an enrollment agreement and that resulted in harm to the student.

(b) The bureau shall adopt regulations, within one year of the enactment of this chapter, governing probation and suspension of an approval to operate.

(c) The bureau may seek reimbursement pursuant to Section 125.3 of the Business and Professions Code.

(d) An institution shall not be required to pay the cost of investigation to more than one agency.

7. Business and Professions Code section 118 states, in part:

...

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, 'board' includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'"

STATUTORY AND REGULATORY PROVISIONS

8. Business and Professions Code section 477 states:

As used in this division:

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

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

9. Section 94897 of the Education 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,

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record indicating student completion, placement, employment, salaries, or financial information, including any of the following:

...

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

(k) Willfully falsify, destroy, or conceal any document of record while that document of record is required to be maintained by this chapter.

...

(p) Offer an associate, baccalaureate, master's, or doctoral degree without disclosing to prospective students prior to enrollment whether the institution or the degree program is unaccredited and any known limitation of the degree, including, but not limited to, all of the following:

...

(2) A statement that reads: "A degree program that is unaccredited or a degree from an unaccredited institution is not recognized for some employment positions, including, but not limited to, positions with the State of California."

(3) That a student enrolled in an unaccredited institution is not eligible for federal financial aid programs.

10. Section 94900 of the Education Code states:

...

(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.

...

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

11. Code section 94900.5 states:

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:

(a) The educational programs offered by the institution and the curriculum for each.

(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).

12. Code section 94902 states in part:

(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.

...

13. Code section 94911 states in part:

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

(a) The name of the institution and the name of the educational program, including the total number of credit hours, clock hours, or other increment required to complete the educational program.

...

14. Code section 94929 states:

(a) An institution shall annually report to the bureau, as part of the annual report, and publish in its School Performance Fact Sheet, the completion rate for each program. Except as provided in subdivision (b), the completion rate shall be calculated by dividing the number of on-time graduates by the number of students available for graduation.

(b) In lieu of calculating graduation data pursuant to subdivision (a), an institution may report graduation data reported to, and calculated by, the Integrated Postsecondary Education Data System of the United States Department of Education.

15. Code section 94929.5 states:

(a) An institution shall annually report to the bureau, as part of the annual report, and shall publish in its School Performance Fact Sheet, all of the following:

(1) The job placement rate, calculated by dividing the number of graduates employed in the field by the number of graduates available for employment for each program that is either (1) designed, or advertised, to lead to a particular career, or (2) advertised or promoted with any claim regarding job placement.

(2) The license examination passage rates for the immediately preceding two years for programs leading to employment for which passage of a state licensing examination is required, calculated by dividing the number of graduates who pass the examination by the number of graduates who take the licensing examination the first time that the examination is available after completion of the educational program. The institution shall use state agency licensing data to calculate license examination passage rates. If those data are unavailable, the institution shall calculate the license examination passage rate in a manner consistent with regulations adopted by the bureau.

(3) Salary and wage information, consisting of the total number of graduates employed in the field and the annual wages or salaries of those graduates stated in increments of five thousand dollars ($5,000).

(4) If applicable, the most recent official three-year cohort default rate reported by the United States Department of Education for the institution and the percentage of enrolled students receiving federal student loans.

(b) Nothing in this section shall limit the bureau's authority to collect information from an institution to comply with this section and ensure, by regulation and other lawful means, that the information required by this section, and the manner in which it is collected and reported, is all of the following:

(1) Useful to students.

(2) Useful to policymakers.

(3) Based upon the most credible and verifiable data available.

(4) Does not impose undue compliance burdens on an institution.

(c) Data and information disclosed pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) is not required to include students who satisfy the qualifications specified in subdivision (d) of Section 94909, but an institution shall disclose on its fact sheet and to the bureau whether its data, information, or both, excludes any students pursuant to this subdivision.

16. Title 5, California Code of Regulations (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.

...

17. Title 5, CCR, section 71800 states:

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:

(a) The name and address of the institution and the addresses where instruction will be provided.

(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;

(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.

(f) Charges paid to an entity other than an institution that is specifically required for participation in the educational program.

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

...

(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;

(B) Records documenting units of credit earned at other institutions that have been accepted and applied by the institution as transfer credits toward the student's completion of an educational program;

...

(3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid;

...

(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;

...

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

...

(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.

...

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

...

COST RECOVERY

20. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTS

COMPLAINT INVESTIGATION

21. On September 10, 2014, the Bureau's Complaint Investigation Unit received via e-mail an anonymous complaint about Respondent and California University of Management and Sciences (CalUMS) that a civil lawsuit was filed against Respondent and CalUMS alleging

student grade tampering, students hired for faculty positions, I-20 Visa fraud and operating a diploma mill. The complaint alleged that D.P. was the founder and President of Respondent and CalUMS. The allegations in this First Amended Accusation pertain to Respondent only.

22. On September 12, 2014, the Bureau received another e-mail complaint with similar allegations against Respondent. On April 1, 2015, the Bureau received another complaint, this time from "whistleblowers" about Respondent that alleged computer tampering, falsification of records, selling diplomas, and grade tampering, among other things. The whistleblowers were M.P. (Respondent's Registrar), A.P. (Respondent's Vice Chancellor) and G.C. (Respondent's Compliance Officer/Accreditation Administrator. The complaint included approximately 21 student records.

23. Among the allegations of the whistleblowers' complaint to the Bureau was that students received a Bachelor of Science in Holistic Science (BSHS) diploma after graduating from the Master of Science in Acupuncture Oriental Medicine (MSAOM) program. Students who earned credits attending the MSAOM program were also given credits towards the BSHS program at the same time and diplomas were issued to unqualified students. In addition, transcripts provided by Respondent to the California Acupuncture Board (CAB) and National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) were different from Respondent's official transcripts. The Registrar's log of BSHS degrees issued identified five students who were not registered by the Registrar. They are students L.T. (Student 32L), T.T., A.E., J.Y. and Y.C. (Student 32B)

24. The whistleblowers' complaint also alleged that certain students who had been issued degrees in BSHS were not qualified. In addition, the complaint alleged that R.B., Respondent's Student Advisor, charged students money to change their TOEFL (Test of English as a Foreign Language) test results, with the knowledge of Respondent and Respondent's President, J.S., corrected the answers of student's TOEFL exams before submission for an official score, and allowed students to take the exam in different rooms and on another campus.

25. On or about April 30, 2015, the whistleblowers advised K.J. that D.P. became aware of the whistleblowers' complaint to the BPPE. D.P. asked the whistleblowers which documents

had been provided to the Bureau and told the whistleblowers that he wanted to "fix" the documents. D.P. asked G.C. several times about the documents submitted to the Bureau.

26. In May, 2015, A.P.'s position at the school was eliminated; in June, 2015, M.P. and G.C. were terminated.

27. On or about June 18, 2015, Bureau Enforcement Analysts, K.J. and B.K., visited Respondent's Anaheim campus. They were greeted by C.P., the Registrar, who escorted K.J. and B.K. on a campus tour. The Anaheim campus has three floors of the building; classrooms were on the first two floors and an acupuncture clinic was on the third floor. K.J. and B.K. requested the records of 16 students however C.P. was only able to locate six student files. However, C.P. located and provided official transcripts for all 16 of the students (Students 32A to 32P)

28. K.J. and B.K. interviewed J.S., the President of Respondent school. J.S. stated he was aware of the "Whistleblower case." J.S. stated that many of Respondent's students attend classes in both the Los Angeles and Anaheim campuses. J.S. stated that the school recently moved all the student files to the Anaheim campus as instructed by their accrediting agency, Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM).

29. J.S. explained that 30% of the students admitted to Respondent school were awarded a BSHS. The students are required to have two years of prior college and a minimum of 90 units to be accepted into the MSAOM program. The classes taken while enrolled in the MSAOM program are also applied to the BSHS degree to fulfill the 180 required units for the BSHS. According to J.S., the BSHS was not an accredited program however, ACAOM allowed the school to issue the BSHS diplomas.

30. K.J. requested the remaining student files and a student roster for the BSHS program for the past five years. K.J. received the student files on July 9, 2015.

31. On or about July 15, 2015, K.J. learned that ACAOM conducted a site visit for accreditation purposes. The site visit occurred from May 27, 2015 through May 29, 2015. On July 28, 2015, K.J. received the ACAOM Site Visit Report. K.J. noted there were 18 findings of non-compliance.

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32. On or about August 11, 2015, K.J. returned to the school with Bureau Enforcement Analyst J.C. and obtained copies of five randomly selected BSHS student records (Students 32Q through 32U).

33. Bureau investigators also obtained the student records of K.R. (Student 32A) from Respondent's Virginia campus and compared it with the records obtained during the on-site investigation on June 18, 2015. K.R. enrolled in Respondent's Virginia campus on April 3, 2014 and transferred to Respondent's Anaheim campus on April 7, 2015. K.R.'s student records obtained during the on-site visit were missing eight documents that had been in the records provided by the whistleblowers. The missing documents included:

a. Email dated February 12, 2015, that contained K.R.'s Academic Record;

b. Email dated October 27, 2014, that contained K.R.'s Academic Record;

c. Academic Records printed on January 26, 2015;

d. Academic Record printed on February 11, 2015;

e. Bergen Community College Office Transcript dated April 18, 2014;

f. Two pages of Bergin Course descriptions; and,

g. Student Files Checklist.

34. The following discrepancies were found between K.R.'s Academic Record contained in the October 24, 2014 e-mail and the Official Transcript obtained during the site visit on June 18, 2015:

a. Transfer Credits were included in the June 18, 2015 Official Transcript;

b. Spring 2014, BS310 History of Medicine grade changed from A to B;

c. Spring 2014, BS384 Systemic Pathology grade changed from B to A; and,

d. Summer 2015, AC342 Acupuncture B grade changed from A to B.

35. The following discrepancies were found between the documents provided by the whistleblowers and K.R.'s records obtained during the site visit on June 18, 2015:

a. April 3, 2014, Admissions Evaluation Form, Semester units modified from 180 to 177 and the Dong-A-University year 1985 had been changed to 1986;

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b. April 27, 2014, Program Language Acknowledgement document the date had been added;

c. June 2, 2014, Course Registration Form the Academic Advisor signature was added;

d. July 7, 2014, Add & Drop Form the Academic Advisor signature was added; and,

e. July 10, 2014, Add & Drop Form an Academic Advisor signature was added.

36. Review of the remaining 20 student records (Students 32B through 32U) revealed the following:

a. No BSHS Enrollment Agreements were in Student files 32B through 32T.

b. Documents such as previous transcripts, evaluation forms, academic records, transcripts and BSHS diplomas were missing from Student files 32A, 32C, 32D, 32G through 32P.

c. Diplomas were issued without identification numbers. (Students 32E, 32G, 32J, 32M, 32N, 32O, and 32P)

d. Transfer credits for Students 32C, 32F and 32L increased after the graduation date.

e. BSHS diplomas were not identified on official transcripts issued to CAB for Students 32B, 32E, 32H through 32O.

37. A review of Respondent's February 1, 2010-August 22, 2013 "BA Degree" list (Bachelor diploma applicants who paid fees to receive their diplomas) provided by the whistleblowers with the Roster of Students enrolled in the BSHS program and who received diplomas from June 2010 to June 2015 revealed 23 students on the BA Degree List who were not on the BSHS roster. The 23 students paid a fee to receive the diploma but were not enrolled in the BSHS program.

38. On October 22, 2015, K.J. requested financial ledgers and transcripts for six BSHS students: Students 32L, 32Q, 32R, 32S, 32T and 32U. K.J. received the requested documents on October 22, 2015.

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39. Review of the ledgers revealed that the following payments were not included in the students' ledgers:

Student #	Receipt Print Date	Amount	Receipt #
32D	3/5/2010	$100	AN038902
32C	3/14/2012	$550	LA022073
32F	3/15/2012	$550	AN052651
32L	10/3/2012	$550	AN056427
32H	2/21/2013	$550	LA024352
32K	2/27/2013	$550	AN059188
32I	8/22/2013	$550	AN061998

40. On November 4, 2015, K.J. reviewed Respondent's website at www.southbaylo.edu and reviewed the admission requirements for the MSAOM program. According to the website, the requirements for admission in the MSAOM program included applicants who have completed a bachelor's degree or its equivalent from an institution accredited by an agency recognized by the U.S. Department of Education and applicants who have not completed a bachelor's degree but earned at least 90 quarter units or 60 semester units at the baccalaureate level from an accredited institution. Further, "any credit used for admissions requirements shall not be used again for credit towards the Master's degree program."

41. CAB's requirements for admission to acupuncture and oriental medicine training programs included the completion of least two academic years (60 semester credits/90 quarter credits) of education at the baccalaureate level, or the equivalent from an institution accredited by an agency recognized by the U.S. Secretary of Education. During K.J.'s investigation, she found that some students did not meet Respondent's or CAB's admission requirements, and that after learning of the whistleblower's complaint, Respondent created new admission evaluation sheets that inflated the student's previous education credits on the new evaluation sheets. The BSHS student files did not have BSHS enrollment agreements, BSHS academic records or transcripts. A student that was enrolled in the Master's program was automatically provided the Bachelor's degrees.

42. On May 23, 2016, K.J. requested copies of the following student records from CAB, 32B, 32C, 32E through 32J, 32L through 32P. K.J. was advised that students 32D and 32F did

not submit applications to take the acupuncture exams and therefore CAB did not have records for these students.

COMPLIANCE INSPECTION

43. On April 19, 2016, M.A. from the Bureau's Compliance Unit conducted an unannounced compliance inspection of Respondent's Anaheim campus. The inspection included a tour of the campus, review of student records and interviews with staff.

44. Although the institution was approved to provide instruction in English, Chinese, and Korean, M.A. found that the institution did not provide or maintain an enrollment agreement, catalog and School Performance Fact Sheet (SPFS) in Chinese and Korean.

45. The institution recruited and enrolled Chinese and Korean speaking students without providing students with a catalog, enrollment agreement, and SPFS in their primary language.

46. The institution offered a BSHS program that ran concurrently with the MSAOM. M.A. requested a list of students in the BSHS program. J.S. stated there was no such list because the BSHS program was part of the MSAOM program and stated that he had approval for this from the accrediting body but could not provide documentation. Later in the day, J.S. stated the institution no longer offered the BSHS program. By the end of the day, J.S. stated the institution did offer the BSHS program. J.S. was cautioned that the school may be offering an unapproved "combo" program.

47. During M.A.'s inspection, M.A. reviewed 11 student files: Y.S., J.G., H.V., E.V., S.J., K.M., M.T., J.P., A.C., D.K. and S. L. Of the student files reviewed, no student files contained enrollment agreements for the BSHS program. However, several student files indicated the students were enrolled in the BSHS program as stated on transcripts, degrees, emails, or letters. Examples are:

a. J.P. – The student file contained an enrollment agreement for MSAOM program but none for BSHS program. However, the file contained a BSHS diploma. Form I-20 stated the student was not proficient in English; however, the enrollment agreement was written in English. The student file did not contain a SPFS.

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b. Y.S. – The student filed contained an enrollment agreement for MSAOM program but none for BSHS program. However, the file contained an e-mail from the school that the student met the admissions requirements for the BSHS program and that the BSHS degree will be awarded upon completion of the MSAOM program.

c. E.V. – The student filed contained an enrollment agreement for MSAOM program but none for BSHS program. However, the file contained an Admission Evaluation form that indicated the student met the BSHS and MSAOM admissions requirements.

d. K.M. – The student filed contained an enrollment agreement for MSAOM program but none for BSHS program. However, the file contained an e-mail from the school that the student met the admissions requirements for the BSHS program and that the BSHS degree will be awarded upon completion of the MSAOM program. The file also contained a BSHS diploma.

48. On July 7, 2016, K.J. sent a letter to D.P. at the institution regarding violations identified during the compliance inspection on April 19, 2016. K.J. also requested the school provide SPFS back up data for the last five years, student enrollment agreements and SPFS in Korean and Chinese, and a BSHS student roster for all students enrolled in the last five years. K.J. requested the information by July 21, 2016. The requested documents were not provided to K.J.

FIRST CAUSE FOR DISCIPLINE

(Violations Regarding Admissions Standards and Transferred Credits Policy)

49. Respondent is subject to disciplinary action under title 5, CCR, section 71770(a), in that Respondent failed to comply with its policy for admission in the MSAOM program as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein:

a. Admission in the MSAOM program required a baccalaureate degree or completion of 60 semester units or 90 quarter units at a baccalaureate level from an accredited institution. Students 32G and 32S did not have the required previous college units.

b. Respondent's admission policy stated that any credit used to meet admission requirements shall not be used again for credit towards the Master's degree program. Students

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32Q and 32T met the required number of college units for admission however, the units were applied towards the MSAOM program.

SECOND CAUSE FOR DISCIPLINE

(Failure to Provide Enrollment Agreements)

50. Respondent is subject to disciplinary action under title 5, CCR, section 71800 and Code sections 94902(a) and 94911(a), in that Respondent failed to provide each student in the BSHS program an enrollment agreement as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein.

51. 19 out of 19 student files that were reviewed (Students 32B through 32T) pursuant to the Bureau's investigation on June 18, 2015 did not have BSHS Enrollment Agreements. However, these students were named in the BSHS Student Roster.

52. During the compliance inspection on April 19, 2016, the student files of Y.S., J.G., H.V., E.V., S.J., K.M., M.T., J.P., A.C., D.K. and S. L. contained documentation that students were enrolled in the BSHS and MSAOM programs. However, the student files only included enrollment agreements for the MSAOM program. There were no BSHS enrollment agreements in the student files.

THIRD CAUSE FOR DISCIPLINE

(Student Records - Failure to Maintain Previous College Transcripts)

53. Respondent is subject to disciplinary action under title 5, CCR, section 71920(b)(1) in that Respondent failed to maintain written records and transcripts of any formal education or training pertaining to Student 32H in the student's file as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein.

54. The BSHS Evaluation Form provided by the whistleblowers showed Student 32H attended Orange Coast College and University of California, Riverside. The BSHS Evaluation Form obtained from the institution indicated the student attended National Taipei University. Since there were no previous college transcripts in the student file, Student 32H's formal education could not be confirmed.

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FOURTH CAUSE FOR DISCIPLINE

(Student Records – Failure to Maintain Documentation of Credits Earned at Another Institution)

55. Respondent is subject to disciplinary action under title 5, CCR, section 71920(b)(1)(B) in that Respondent failed to maintain records documenting units of credit earned at other institutions that have been accepted and applied by the institution as transfer credits toward the student's completion of an educational program as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein.

56. Respondent applied 52 units toward Student 32H's general education units, however the student's file did not contain documentation identifying the source of these units.

FIFTH CAUSE FOR DISCIPLINE

(Student Records - Failure to Maintain Enrollment Agreements)

57. Respondent is subject to disciplinary action under title 5, CCR, section 71920(b)(3) in that Respondent failed to maintain BSHS enrollment agreements for Students 32B through 32T in student files as more fully set forth in paragraphs 24-48 above and incorporated by this reference as though set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Student Records – Transcripts Failed to Show All Programs Completed)

58. Respondent is subject to disciplinary action under title 5, CCR, section 71920(b)(5)(A) in that Respondent failed to maintain student files containing transcripts showing all the courses or other educational programs that were completed, or were attempted but not completed, and the dates of completion or withdrawal, as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein.

59. Respondent failed to identify the BSHS degrees on the Official Transcripts of ten students, Students 32B, 32E, 32H-32O. Nine of those of ten transcripts were submitted to CAB to qualify for licensure examinations.

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SEVENTH CAUSE FOR DISCIPLINE

(Student Records - Failure to Maintain Documentation of the Total Amount of Money Received from a Student)

60. Respondent is subject to disciplinary action under title 5, CCR, section 71920(b)(9) in that Respondent failed to maintain documentation in the student files 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 as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein.

61. Of the 21 student files reviewed, seven of the BSHS students (Students 32C, 32D, 32F, 32H, 32I, 32K and 32L) paid Respondent for BSHS diplomas however, the payments were not identified on the students' ledgers.

EIGHTH CAUSE FOR DISCIPLINE

(Maintenance of Records)

62. Respondent is subject to disciplinary action under title 5, CCR, section 71930(b)(1) and Code section 94900(b)(1) in that Respondent failed to maintain pertinent student records for a period of 5 years as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein.

63. The whistleblowers provided copies of student documents that were missing when Respondent provided the same student files to K.J. on June 18, 2015, and July 9, 2015.

64. Respondent failed to maintain required student records. The student files for Student 32I, 32J, 32O and 32P were missing BSHS diplomas.

NINTH CAUSE FOR DISCIPLINE

(Failure to Provide Access to Student Records)

65. Respondent is subject to disciplinary action under title 5, CCR, section 71930(e) in that Respondent failed to make all records that the institution is required to maintain immediately available for inspection by the Bureau in that on June 18, 2015, Respondent failed to provide access to the Bureau for inspection of ten student files. Respondent stated they were not able to locate the student files for Students 32B, 32C, 32D, 32E, 32F, 32H, 32K, 32L, 32M, and 32N, as

more fully set forth in paragraphs 24-48 above and incorporated by this reference as though set forth herein.

TENTH CAUSE FOR DISCIPLINE

(Making Misleading Change In or Untrue Statements Regarding Student Grades)

66. Respondent is subject to disciplinary action under Code section 94897(j) for making an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade or record of grades, as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein:

a. Student 32A – This student had three modified class grades that did not match the student documents provided by the Whistleblowers.

b. Student 32L – The 7/29/2013 Official Transcript for this student had a College Algebra class added after the student graduated.

ELEVENTH CAUSE FOR DISCIPLINE

(Making Misleading Change In or Untrue Statements In Any Other Required Record)

67. Respondent is subject to disciplinary action under Code section 94897(j)(3) for making an untrue or misleading change in, or untrue or misleading statement in any other required record as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein:

a. Student 32A – This student had five modified student records that did not match the student documents provided by the Whistleblowers.

b. Students 32C, 32F, and 32L – These students had transfer credits that were increased after the student graduated.

c. Seven BSHS student files had BSHS Evaluation Forms that showed an increase in general education units from the forms provided by the whistleblowers. The documents provided by the whistleblowers were missing from the student files.

d. Students 32Q, 32R and 32T – These students had the BSHS program titles removed from their Academic Records.

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TWELFTH CAUSE FOR DISCIPLINE

(Willfully Falsifying, Destroying or Concealing Documents)

68. Respondent is subject to disciplinary action under Code section 94897(k) for willfully falsifying, destroying, or concealing a document that is required to be maintained as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein.

69. Student documents that were provided by the whistleblowers were missing from the student files provided by Respondent to the Bureau Investigators:

a. The student files for Students 32I, 32J, 32O, 32P were missing BSHS diplomas.

b. The student files for Students 32C, 32D, 32H, 32I, 32J, 32M, 32O and 32P were missing BSHS Evaluation Forms.

c. The student files for Students 32A, 32J, 32L and 32P were missing Official Transcripts.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Disclose Program is Unaccredited)

70. Respondent is subject to disciplinary action under Code section 94897(p)(2) for failing to disclose that a degree program is unaccredited in that Respondent failed to disclose, in writing, that the BSHS program was not an accredited program, as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein.

71. The student files for Students 32Q, 32R, 32S and 32T, who enrolled after January, 2013,[2] did not contain BSHS enrollment agreements or the required disclosure notice regarding the lack of BSHS accreditation.

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[2] Education Code 94897 was amended effective January 1, 2013 to add subdivision (p)(3) that states a student enrolled in an unaccredited institution is not eligible for federal financial aid programs.

FOURTEENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Records of Grades Earned by Students in Student Files)

72. Respondent is subject to disciplinary action under Code section 94900(b)(3) in that Respondent failed to maintain a record of grades earned by the student as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein:

a. Student 32A – The grades on this student's October 27, 2014 Academic Record did not match the grades in this student's June 18, 2015 Official Transcript.

b. Student 32L – The Official Transcript printed on July 29, 2013 had class ST131 College Algebra added 8 months after this student graduated.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Institutional Records)

73. Respondent is subject to disciplinary action under Code section 94900.5 in that Respondent failed to maintain institutional records for a period of not less than five years as set forth below and in paragraphs 24-48 above and incorporated by this reference as though set forth in full herein:

a. Respondent failed to provide and maintain BSHS Enrollment Agreements for Students 32B through 32T.

b. Respondent failed to maintain Student 32H's previous transcripts from other institutions.

c. The documents provided by the whistleblowers for 21 students (Students 32A, 32C, 32D, 32G, 32H, 32I, 32J, 32K, 32L, 32M, 32O, and 32P) were not included in the student files provided to the Bureau investigators by Respondent.

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 Approval to Operate Number 3004561 issued to South Baylo University, dba South Baylo University School of Oriental Medicine;

2. Ordering South Baylo University, dba South Baylo University School of Oriental Medicine, 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: 1/11/18

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

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