

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

In the Matter of the Accusation Against:

**1st Academy of Beauty
8819 – 8823 Garvey Avenue
Unit A ½, B1, & B ½
Rosemead, CA 91770**

Institution Code: 49488813

Respondent.

Case No. 1003439

OAH No. 2019020145

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.

This Decision shall become effective on _____.

IT IS SO ORDERED this _____ day of _____, 2019.

RYAN MARCROFT
Deputy Director, Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 MICHAEL YI
Deputy Attorney General
4 State Bar No. 217174
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6483
6 Facsimile: (916) 731-2126
E-mail: Michael.Yi@doj.ca.gov
7 *Attorneys for Complainant*

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17 Respondent.

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**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 **PARTIES**

22 1. Dr. Michael Marion, Jr. (“Complainant”) is the Chief of the Bureau for Private
23 Postsecondary Education (the “Bureau”). He brought this action solely in his official capacity
24 and is represented in this matter by Xavier Becerra, Attorney General of the State of California,
25 by Michael Yi, Deputy Attorney General.

1 2. Respondent 1st Academy of Beauty (“Respondent”) is represented in this proceeding
2 by attorney Brandon M. Smith of the Law Offices of Brandon M. Smith, APC, 105 W. F St., 3rd
3 Floor, San Diego, CA 92101.

4 3. On or about November 29, 2011, the Bureau issued Approval to Operate Institution
5 Code 49488813 to Respondent. The Approval to Operate was in full force and effect at all times
6 relevant to the charges brought herein and will expire on March 1, 2023, unless renewed.

7 **JURISDICTION**

8 4. Accusation No. 1003439 was filed before the Director of the Department of
9 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
10 statutorily required documents were properly served on Respondent on January 14, 2019.
11 Respondent timely filed its Notice of Defense contesting the Accusation.

12 5. A copy of Accusation No. 1003439 is attached as exhibit A and incorporated herein
13 by reference.

14 **ADVISEMENT AND WAIVERS**

15 6. Respondent has carefully read, fully discussed with counsel, and understands the
16 charges and allegations in Accusation No. 1003439. Respondent has also carefully read, fully
17 discussed with counsel, and understands the effects of this Stipulated Settlement and
18 Disciplinary Order.

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

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

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 1003439.

4 10. Respondent agrees that its Approval to Operate is subject to discipline and agrees to
5 be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

6 **CONTINGENCY**

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

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

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their
23 agreement. It supersedes any and all prior or contemporaneous agreements, understandings,
24 discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and
25 Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed
26 except by a writing executed by an authorized representative of each of the parties.

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

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8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that the approval to operate a private postsecondary institution
10 (Institution Code 49488813) issued to Respondent 1st Academy of Beauty is revoked. However,
11 the revocation is stayed and Respondent is placed on probation for five (5) years on the
12 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
22 within 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**

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

6 **3. Personal Appearances**

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

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

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

17 Prior Bureau approval is required before Respondent makes any changes regarding
18 ownership or control of 25% or more of the stock or an interest in of the institution and, to the
19 extent applicable, each general partner, officer, corporate director, corporate member or any
20 other person who exercises substantial control over the institution's management or policies.
21 Respondent shall submit an Application for Substantive Change to the Bureau before any
22 changes are made regarding ownership or control of 25% or more of the stock or an interest in of
23 the institution and, to the extent applicable, each general partner, officer, corporate director,
24 corporate member or any other person who exercises substantial control over the institution's
25 management or policies.

26 **5. Notification to Prospective Students**

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

7 A copy of the notification shall be provided to the Bureau, along with the names of the
8 students and prospective students notified, their current contact information, and the date of the
9 notification.

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12 **6. Student Roster**

13 Within 15 days of the effective date of this Decision, and with the Quarterly Reports
14 thereafter, provide to the Bureau the names, addresses, phone numbers, email addresses,
15 programs in which they are or were enrolled, date of enrollment, cost of the program, and the
16 amount paid, of all persons who are currently or were students of the institution within 60 days
17 prior to the effective date of the Decision, and those students who were enrolled at the time of
18 the conduct that is the subject of this action.

19 **7. Instruction Requirements and Limitations**

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

23 **8. Record Storage**

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

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

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

5 **10. Comply With Citations**

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

8 **11. Cost Recovery Requirements**

9 Respondent shall pay to the Bureau its costs of investigation and enforcement in the
10 amount of \$6,161.52 no later than one year before the termination of probation. Such costs shall
11 be payable to the Bureau and are to be paid regardless of whether the probation is tolled. Failure
12 to pay such costs shall be considered a violation of probation.

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

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16 **12. Violation of Probation**

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

23 **13. Future Approvals to Operate**

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

3 **14. Comply with All Accreditation Standards**

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

9 **15. Completion of Probation**

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

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1 **ACCEPTANCE**

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
3 fully discussed it with my attorney, Brandon M. Smith. I understand the stipulation and the
4 effect it will have on the Approval to Operate issued to 1st Academy of Beauty. Respondent
5 enters into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
6 intelligently, and agree to be bound by the Decision and Order of the Director of the Department
7 of Consumer Affairs.

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9 DATED: _____
10 PHIENG LE, OWNER
11 1ST ACADEMY OF BEAUTY, PHIENG LU
12 *Respondent*

13 I have read and fully discussed with Respondent 1st Academy of Beauty, the terms and
14 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
15 Order. I approve its form and content.

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17 DATED: _____
18 BRANDON M. SMITH
19 *Attorney for Respondent*

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ENDORSEMENT

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

DATED: August 14, 2019

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General

MICHAEL YI
Deputy Attorney General
Attorneys for Complainant

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