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9	BEFORE THE DEPARTMENT OF CONSUMER AFFAIRS		
10	FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION STATE OF CALIFORNIA		
11			
12	In the Matter of the Accusation Against:	Case No. 1001008	
13	SAN JOSE BARBER COLLEGE		
14	Carlos Romero, Owner 1686 Monterey Hwy., Bldg. A	ACCUSATION	
15	San Jose, CA 95112	ACCUSATION	
16	School Code 4304951		
17	Respondent.		
20 Jack		-	
18	Complainant alleges:		
19	PAR	TIES	
20	1. Joanne Wenzel (Complainant) brings	s this Accusation solely in her official capacity as	
21	the Chief of the Bureau for Private Postsecondar	y Education, Department of Consumer Affairs.	
22	2. On or about October 1, 1991, the Bureau for Private Postsecondary Education issued		
23	Approval to Operate to San Jose Barber College, Carlos Romero, Owner (Respondent). The		
24	Approval to Operate was in full force and effect at all times relevant to the charges brought in this		
25	Accusation.		
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	(SAN JOSE BARBER COLLEGE, CARLOS ROMERO, OWNER) ACCUSATION		

Ĩ	JURISDICTION	
2	3. This Accusation is brought before the Director of the Department of Consumer	
3	Affairs (Director) for the Bureau for Private Postsecondary Education, under the authority of the	
4	following laws. All section references are to the Education Code unless otherwise indicated.	
5	4. Section 118, subdivision (b) of the Business and Professions Code provides that the	
6	suspension, expiration, surrender, cancellation of a license shall not deprive the Director of	
7	jurisdiction to proceed with a disciplinary action during the period within which the license may	
8	be renewed, restored, reissued or reinstated.	
9	5. Section 94932 of the Code states:	
10	"The bureau shall determine an institution's compliance with the requirements of this	
11	chapter. The bureau shall have the power to require reports that institutions shall file with the	
12	bureau in addition to the annual report, to send staff to an institution's sites, and to require	
13	documents and responses from an institution to monitor compliance. When the bureau has reason	
14	to believe that an institution may be out of compliance, it shall conduct an investigation of the	
15	institution. If the bureau determines, after completing an investigation, that an institution has	
16	violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this	
17	article."	
18	6. Section 94933 of the Code states:	
19	"The bureau shall provide an institution with the opportunity to remedy noncompliance,	
20	impose fines, place the institution on probation, or suspend or revoke the institution's approval to	
21	operate, in accordance with this article, as it deems appropriate based on the severity of an	
22	institution's violations of this chapter, and the harm caused to students."	
23	7. Section 94937 of the Code states, in pertinent part:	
24	"(a) As a consequence of an investigation, and upon a finding that an institution has	
25	committed a violation, the bureau may place an institution on probation or may suspend or revoke	
26	an institution's approval to operate for:	
27	"(1) Obtaining an approval to operate by fraud.	
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	(SAN JOSE BARBER COLLEGE, CARLOS ROMERO, OWNER) ACCUSATION	

"(2) A material violation or repeated violations of this chapter or regulations adopted 1 pursuant to this chapter that have resulted in harm to students. For purposes of this 2 paragraph, "material violation" includes, but is not limited to, misrepresentation, fraud in 3 4 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 5 the student." 6 8. Title 5, California Code of Regulations, section 75100: 7 "(a) The Bureau may suspend, revoke or place on probation with terms and conditions an 8 approval to operate. 9 "(b) 'Material violation' as used in section 94937 of the Code includes committing any act 10 that would be grounds for denial under section 480 of the Business and Professions Code. 11 "(c) The proceedings under this section shall be conducted in accordance with Article 10 12 (commencing with Section 11445.10) of Chapter 4.5 or Chapter 5 (commencing with Section 13 11500) of Part 1 of Division 3 of Title 2 of the Government Code, as requested by the 14 institution." 15 STATUTORY PROVISIONS 16 9. Code section 94885 states: 17 "(a) The bureau shall adopt by regulation minimum operating standards for an institution 18 that shall reasonably ensure that all of the following occur: 19 "(1) The content of each educational program can achieve its stated objective. 20 "(2) The institution maintains specific written standards for student admissions for 21 each educational program and those standards are related to the particular educational 22 23 program. "(3) The facilities, instructional equipment, and materials are sufficient to enable 24 25 students to achieve the educational program's goals. "(4) The institution maintains a withdrawal policy and provides refunds. 26 "(5) The directors, administrators, and faculty are properly qualified. 27 28 3

(SAN JOSE BARBER COLLEGE, CARLOS ROMERO, OWNER) ACCUSATION

1	"(6) The institution is financially sound and capable of fulfilling its commitments to	
2	students.	
3	"(7) That, upon satisfactory completion of an educational program, the institution	
4	gives students a document signifying the degree or diploma awarded.	
5	"(8) Adequate records and standard transcripts are maintained and are available to	
6	students.	
7	"(9) The institution is maintained and operated in compliance with this chapter and all	
8	other applicable ordinances and laws.	
9	"(b) Except as provided in Section 94855.1, an institution offering a degree must satisfy	
10	one of the following requirements:	
11	"(i) Accreditation by an accrediting agency recognized by the United States	
12	Department of Education, with the scope of that accreditation covering the offering of at	
13	least one degree program by the institution.	
14	"(ii) An accreditation plan, approved by the bureau, for the institution to become fully	
15	accredited within five years of the bureau's issuance of a provisional approval to operate to	
16	the institution. The provisional approval to operate to an unaccredited degree-offering	
17	institution shall be in compliance with Section 94885.5."	
18	10. Title 5, California Code of Regulations, section 71745 states:	
19	"(a) The institution shall document that it has at all times sufficient assets and financial	
20	resources to do all of the following:	
21	"(1) Provide all of the educational programs that the institution represented it would	
22	provide.	
23	"(2) Ensure that all students admitted to its educational programs have a reasonable	
24	opportunity to complete the programs and obtain their degrees or diplomas.	
25	"(3) Maintain the minimum standards required by the Act and this chapter.	
26	"(4) Pay timely refunds as required by Article 13 of the Act.	
27	"(5) Pay all operating expenses due within 30 days.	
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	(SAN JOSE BARBER COLLEGE, CARLOS ROMERO, OWNER) ACCUSATION	

1	"(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at	
2	the end of the most recent fiscal year when using generally accepted accounting principles,	
3	or for an institution participating in Title IV of the federal Higher Education Act of 1965,	
4	meet the composite score requirements of the U.S. Department of Education. For the	
5	purposes of this section, current assets does not include: intangible assets, including	
6	goodwill, going concern value, organization expense, startup costs, long-term prepayment	
7	of deferred charges, and non-returnable deposits, or state or federal grant or loan funds that	
8	are not the property of the institution but are held for future disbursement for the benefit of	
9	students. Unearned tuition shall be accounted for in accordance with general accepted	
10	accounting principles.	
11	"(b) At an institution's request, the Bureau may consider the financial resources of a parent	
12	company if the parent company, as defined by section 94853 of the Code, meets and maintains all	
13	of the following provisions:	
14	"(1) consents in writing to be sued in California;	
15	"(2) consents in writing to be subject to the jurisdiction of the Bureau with respect to	
16	the institution's regulation under the Act and this Chapter;	
17	"(3) designates and maintains an agent for service of process, consistent with section	
18	74190;	
19	"(4) agrees in writing to pay any refund, claim, penalty, or judgment that the	
20	institution is obligated to pay; and	
21	"(5) files financial reports, maintains financial records, and consents in writing to	
22	permit the inspection and copying of financial records to the same extent as is required of	
23	the institution.	
24	"(c) An institution shall provide to the Bureau its most current financial statements upon	
25	request."	
26	COSTS	
27	11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the	
28	administrative law judge to direct a licentiate found to have committed a violation or violations of	
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	(SAN JOSE BARBER COLLEGE, CARLOS ROMERO, OWNER) ACCUSATION	

1	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and	
2	enforcement of the case, with failure of the licentiate to comply subjecting the license to not	
3	being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs	
4	may be included in a stipulated settlement.	
5	CAUSE FOR DISCIPLINE	
6	(Failure to Meet Minimum Operating Requirements)	
7	12. Respondent has subject its Approval to Operate to discipline under Code section	
8	94885 and Title 5, CCR section 71745 in that Respondent has failed to meet the minimum	
9	operating requirements set in the Education Code. The circumstances are as follows:	
10	13. On or about October 8, 2015, an investigator for the Complainant reviewed	
11	Respondent's financial statements including Respondent's balance sheet, income statement and	
12	cash flow statement for the year of 2014. The investigator's review discovered that Respondent's	
13	ratio of current assets to current liabilities was not 1.25 to 1.0 or greater, thus failing to meet a	
14	minimum operating requirement. The investigator's review also determined that Respondent	
15	failed to have sufficient assets and financial resources to pay all operating expenses due within 30	
16	days, thus failing to meet a second minimum operating requirement.	
17	PRAYER	
18	WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this	
19	Accusation, and that following the hearing, the Director of the Department of Consumer Affairs	
20	issue a decision:	
21	1. Revoking or suspending the Approval to Operate issued to San Jose Barber College,	
22	Carlos Romero, Owner;	
23	2. Ordering San Jose Barber College, Carlos Romero, Owner, to pay the Bureau for	
24	Private Postsecondary Education the reasonable costs of the investigation and enforcement of this	
25	case, pursuant to Business and Professions Code section 125.3; and,	
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	(SAN JOSE BARBER COLLEGE, CARLOS ROMERO, OWNER) ACCUSATION	

