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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 Accusation Against:

Case No. 1003292

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

ACCUSATION

19 **Approval to Operate an Institution Non-**
20 **Accredited**

21 **School Code 81663192**

Respondent.

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.

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1 2. On or about October 28, 2015, the Bureau for Private Postsecondary Education issued
2 Approval to Operate an Institution Non-Accredited, School Code 81663192 to American Beauty
3 Institute LLC, dba American Beauty Institute (Respondent).

4 **JURISDICTION**

5 3. This Accusation is brought before the Director of the Department of Consumer
6 Affairs (Director) for the Bureau for Private Postsecondary Education, under the authority of the
7 following laws. All section references are to the Education Code unless otherwise indicated.

8 4. Section 94937 of the Education Code (Code) states:

9 (a) As a consequence of an investigation, which may incorporate any materials
10 obtained or produced in connection with a compliance inspection, and upon a
11 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:

12 (1) Obtaining an approval to operate by fraud.

13 (2) A material violation or repeated violations of this chapter or regulations
14 adopted pursuant to this chapter that have resulted in harm to students. For
15 purposes of this paragraph, "material violation" includes, but is not limited to,
16 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.

17 ...

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

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

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

23 ...

24 (b) The suspension, expiration, or forfeiture by operation of law of a license
25 issued by a board in the department, or its suspension, forfeiture, or cancellation
26 by order of the board or by order of a court of law, or its surrender without the
27 written consent of the board, shall not, during any period in which it may be
28 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.'"

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

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

COST RECOVERY

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

Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . the board 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.

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 94893 of the Code states:

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

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:

...

(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.

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

13 15. Section 94911 of the Education Code states:

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

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

19 ...
20 (h) The transferability disclosure that is required to be included in the school
21 catalog, as specified in paragraph (15) of subdivision (a) of Section 94909.

22 ...
23 16. Section 94912 of the Code states:

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

28 17. Section 94929.7 of the Code states:

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

(1) Be documented and maintained by the institution for five years from
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.

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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 ...

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

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

8 ...

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

12 ...

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

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

16 ...

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

18 ...

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

...

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

25 ...

26 (f) The institution shall maintain a cancellation and withdrawal log, kept current
27 on a monthly basis, which shall include the names, addresses, telephone numbers,
28 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. ...

1 **FACTS**

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

7 35. The Bureau's investigator obtained a copy of BBC's citation and BBC's December 5,
8 2017, inspection report. The inspection report noted that an instructor was using the Esthetics
9 classroom to teach and provide microblading. As of March 7, 2018, Respondent had approval to
10 offer courses in Barbering, Cosmetology, Esthetician, Manicurist, and Massage Therapy.
11 Respondent is not currently, nor ever has been, approved to offer an educational program in
12 Microblading.

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

19 37. Respondent's website also stated:

20 **Get Licensed**

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

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

26 38. Respondent's 2017 financial statements, which were submitted to Bureau with its
27 2016 Annual Report indicated Respondent had total current assets of \$890 and total current
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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.

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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, CGR, 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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1 **PRAYER**

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

- 5 1. Revoking or suspending the Approval to Operate an Institution Non-Accredited
6 81663192, issued to American Beauty Institute LLC, dba American Beauty Institute;
- 7 2. Ordering Chau Ha Suki Leung to pay the Bureau for Private Postsecondary Education
8 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
9 Professions Code section 125.3 and Code section 94937(c); and,
- 10 3. Taking such other and further action as deemed necessary and proper.

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13 DATED: 8/27/12



14 DR. MICHAEL MARION, JR.
15 Chief
16 Bureau for Private Postsecondary Education
17 Department of Consumer Affairs
18 State of California
19 *Complainant*

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