

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 CARTER OTT
Deputy Attorney General
4 State Bar No. 221660
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-1349
Facsimile: (510) 622-2270
7 E-mail: Carter.Ott@doj.ca.gov
Attorneys for Complainant

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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 Statement of Issues
Against:

13 **THE BROTHERS & SISTERS**
14 **BARBERCOSMO ACADEMY**

15 **Application for Approval to Operate an**
16 **Accredited Institution**

17 Respondent.

Case No. 1002666

OAH No. 2017110825

THIRD AMENDED STATEMENT OF
ISSUES

18 Complainant alleges:

19 PARTIES

20 1. Dr. Michael Marion, Jr. ("Complainant") brings this Third Amended Statement of
21 Issues solely in his official capacity as the Chief of the Bureau for Private Postsecondary
22 Education, Department of Consumer Affairs.

23 2. On or about December 23, 2016, the Bureau for Private Postsecondary Education
24 ("Bureau") received an Application for Approval to Operate an Accredited Institution from
25 Respondent The Brothers & Sisters BarberCosmo Academy ("Respondent"). The Bureau denied
26 the application on April 12, 2017. On May 11, 2017, Respondent submitted to the Bureau a
27 request for administrative hearing as well as further documents in support of its application.

28 /////

JURISDICTION

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2 3. This Third Amended Statement of Issues is brought before the Director of the
3 Department of Consumer Affairs (“Director”) for the Bureau, under the authority of the following
4 laws. All section references are to the Education Code unless otherwise indicated.

5 4. **Section 94885, subdivision (a)** provides, in part:

6 “(a) The bureau shall adopt by regulation minimum operating standards for an institution
7 that shall reasonably ensure that all of the following occur:

8 “(1) The content of each educational program can achieve its stated objective.

9 ...

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

12 ...

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

15 ...

16 “(9) The institution is maintained and operated in compliance with this chapter and all other
17 applicable ordinances and laws.”

18 5. **Section 94886** provides:

19 “Except as exempted in Article 4 (commencing with Section 94874) or in compliance with
20 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,
21 conduct, or do business as a private postsecondary educational institution in this state without
22 obtaining an approval to operate under this chapter.”

23 6. **Section 94887** provides:

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

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STATUTORY AND REGULATORY PROVISIONS

7. Section 94913, subdivision (a) provides:

“(a) An institution that maintains an Internet Web site shall provide on that Internet Web site all of the following:

“(1) The school catalog.

“(2) A School Performance Fact Sheet for each educational program offered by the institution.

“(3) Student brochures offered by the institution.

“(4) A link to the bureau's Internet Web site.

“(5) The institution's most recent annual report submitted to the bureau.”

8. Section 94934 provides:

“(a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:

“(1) The total number of students enrolled by level of degree or for a diploma.

“(2) The number of degrees, by level, and diplomas awarded.

“(3) The degree levels and diplomas offered.

“(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

“(5) The school catalog, as required pursuant to Section 94909.

“(6) The total charges for each educational program by period of attendance.

“(7) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.

“(8) A statement indicating whether an accrediting agency has taken any final disciplinary action against the institution.

“(9) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter.

1 “(b) The bureau, by January 1, 2011, shall prescribe the annual report’s format and method
2 of delivery.”

3 9. **California Code of Regulations, title 5, section 71390, subdivision (b)** provides:

4 “(b) An applicant shall submit to the Bureau the form required by subdivision (a) of this
5 section, a certified copy of its current verification of accreditation granted by its accrediting
6 agency, and the appropriate application fee, as provided in Section 94930.5(a)(3) of the Code.”

7 10. **California Code of Regulations, title 5, section 71810** provides, in part:

8 “(b) The catalog shall contain the information prescribed by Section 94909 of the Code and
9 all of the following:

10 . . .

11 “(6) The institution’s policies and practices regarding any form of financial aid, including
12 all consumer information which the institution is required to disclose to the student under any
13 state or federal financial aid program;

14 ”

15 11. **California Code of Regulations, title 5, section 74110** provides:

16 “(a) The annual report required by Section 94934 of the Code shall include the information
17 required by sections 94929.5 and 94934 for all educational programs offered in the prior calendar
18 year, and all of the following for the prior calendar year:

19 “(1) Information regarding institutional branch campuses, including addresses and
20 programs offered at each campus, if applicable;

21 “(2) Information regarding satellite locations, including addresses and with which
22 campus(es) the satellite location is affiliated, if applicable;

23 “(3) Name of institutional accreditors for each branch and satellite campus, and for each
24 such campus at which any programs have programmatic accreditation, the names of the
25 programmatic accreditor for each such program, and effective dates for each programmatic
26 accreditation, if applicable;

1 “(4) Information regarding participation in state and federal student loan and grant
2 programs, including the total amount of funding received from each source for those students
3 enrolled in an approved California school regardless of their state of residency;

4 “(5) Information regarding participation in other public funding programs, including the
5 amount of funding received from each public funding source; for purposes of this section, public
6 funding is any financial aid paid on behalf of students or directly to an institution from any public
7 source, such as the Workforce Investment Act, any veterans' financial aid programs pursuant to
8 Section 21.4253 of Title 38 of the Code of Federal Regulations or any other financial aid program
9 that is intended to help students pay education-related expenses, including tuition, fees, room and
10 board, and supplies for education; and

11 “(6) The total percentage of institutional income that comes from any public funding
12 sources.

13 “(b) In addition to the information required by section 94934 and this section provided
14 under penalty of perjury, the institution shall have annual financial statements prepared for the
15 institution's prior fiscal year and signed under penalty of perjury, and shall submit a hard copy
16 under separate cover of such statements in conjunction with its annual report. The form, content
17 and mode of preparation of financial statements shall comply with Section 74115 of this Division.
18 The Bureau may request that the institution immediately make available for inspection to a
19 representative of the Bureau, these financial statements at the offices of the institution.

20 “(c) An institution shall file its annual report by December 1st. The Bureau may extend the
21 period for filing if the institution demonstrates evidence of substantial need but in no case longer
22 than 60 days. The institution shall not change the date of its filing its annual report because of a
23 change in the fiscal year without the Bureau's approval.

24 “(d) The annual report shall be electronically filed by submitting the information required
25 by section 94934 of the Code and this section via the online form provided on the Bureau's
26 website, electronically attaching, as directed, the School Performance Fact Sheet, the enrollment
27 agreement, and the school catalog.”

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PRAAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Third Amended Statement of Issues, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Denying Respondent's Application for Approval to Operate an Accredited Institution;
- and
2. Taking such other and further action as deemed necessary and proper.

DATED: 4/26/18


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

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