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DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Emergency Decision
Against:

John Ridgel's Academy of Beauty, Inc.
9526 Las Tunas Drive
Temple City, CA 91780
School Code 1909211

DECISION

Appellant.

INTRODUCTION

To protect students, prevent misrepresentations to the public, and prevent loss of student funds, on July 10, 2018, the Bureau for Private Postsecondary Education (Bureau) issued an Emergency Decision (Decision) against John Ridgel's Academy of Beauty, Inc. (Academy), directing the Academy to cease enrollment in its programs and cease collecting tuition and fees for its programs. The Decision is scheduled to take effect by close of business July 18, 2018.

The Academy requested an opportunity to be heard before the Director of the Department of Consumer Affairs before the Decision's effective date. The matter was heard on July 17, 2018, before the Director's designee, Assistant Deputy Director Grace Arupo Rodriguez. The Academy's owner, Alice Hsu, Spencer Pao, the owner's son, and Compliance Officer Jose Munoz, , appeared on behalf of the Academy. Enforcement analyst Leslie Feist, appeared on behalf of the Bureau, and Deputy Executive Officer Heather Berg appeared on behalf of the Board of Barbering and Cosmetology (Board). After the hearing, the matter was submitted for review.

After considering the evidence and arguments submitted by the Academy, the Bureau, and the Board, the Decision is **AFFIRMED**.

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4 **FACTUAL AND PROCEDURAL BACKGROUND**

5 **I. JOHN RIDGEL'S ACADEMY OF BEAUTY, INC.**

6 The Bureau approved the Academy to offer four non-degree programs. The four programs
7 are as follows: Cosmetology, Esthetician Program, Manicurist, and Teacher
8 Training/Cosmetology program. All of these programs are approved by the Board. As of July 9,
9 2018, the Academy is approved to offer 1,600 hours in cosmetology training, 600 hours in
10 esthetics training, 400 hours in manicurist training, and 600 hours in teacher
11 training/cosmetology. There is no indication that the Academy may teach in any other language
12 other than English. The Academy reports that it has approximately 20-30 enrolled students.

13 **II. THE BUREAU'S EMERGENCY DECISION**

14 On July 10, 2018, the Bureau issued its Decision and ordered the Academy to cease enrolling
15 new students in its programs, and cease collecting tuition and fees for its program, effective close
16 of business July 18, 2018. The Bureau determined that the institution posed an immediate
17 danger to the public health, safety, and welfare, requiring immediate action to protect students,
18 prevent misrepresentations to the public, and prevent the loss of monies paid by students. In
19 particular, the Bureau found that the institution substantially failed to meet institutional
20 minimum operating standards when it charged students for approved educational programs that
21 were not actually provided. Additionally, the Bureau concluded that the Academy falsified
22 "Proof of Training" records submitted to the Board, which the Board used to verify that its
23 license examination applicants completed the requisite number of training hours before taking
24 the examination.

25 Citing similar concerns, the Board stated that it would not process license examination
26 applications from the Academy's applicants, which resulted in the Academy's students' inability
27 to take the Board's licensure examination.
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1 The Bureau submitted two declarations made by (1) Leslie Feist, from the Bureau and (2)
2 Heather Berg, from the Board, both under penalty of perjury in support of its Decision, which
3 cited the following factors as grounds for the Decision:
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- 5 • The Academy collects money from students for education programs but does not offer
6 instruction in the programs.
- 7 • The Academy appears to be falsifying time cards, and thus, falsely certifying to the Board
8 that students have completed the required Board training hours and curriculum..
- 9 • On April 11, 2018, during the Bureau's investigation, it identified multiple timecards for
10 unidentified students.
- 11 • On or about August 2016 through April 2018, the Academy misrepresented student
12 attendance records by applying credit to students not in attendance as well as
13 misrepresenting the educational services that were received. This resulted in the
14 appearance of students completing the program and the educational curriculum when that
15 was in fact not the case.
- 16 • On or about August 2016 through April 2018, the Academy made false statements
17 regarding the educational curriculum that was provided to students during their
18 attendance at the institution and submitted these false statements to the Board as a
19 testament to the educational services they provided.
- 20 • On or about December 2017, the Institution provided 2015/2016 School Performance
21 Fact Sheets that included falsified statements regarding the completion rates for the
22 Cosmetology, Esthetician, and Manicuring Programs. The numbers reflect that not all
23 students who began the program were eligible to graduate; however, the Academy
24 reported a 100% completion rate.
- 25 • On April 11, 2018, the then-Compliance Director for Academy admitted to a Bureau
26 investigator that the Academy does not collect or maintain information related to student
27 completion, license exam passage rates, placement, or salary and wage information, as
28 required by law.
- On April 11, 2018, instructors of the Academy provided statements to the Bureau that it
did not utilize the required Board curriculum to teach its students. Further, based on
observations made during the compliance visit, it was evident that students were
unfamiliar with timecards, and their purpose for tracking the educational program.

- 1 • The Academy has failed to maintain the level of administrative staffing required to reflect
2 the purpose, size and educational operations at its location. Further, the Academy did not
3 maintain a school administrator on staff, as required, which compromised its ability to
4 achieve its mission and educational objectives.
- 5 • The Academy's students as well as prospective students will lose money because the
6 Board will not process their examination applications out of concerns that the Academy
7 would not provide the requisite training to students.

8 **III. THE ACADEMY'S OPPORTUNITY TO BE HEARD**

9 At the timely request of the Academy, a hearing in this matter was held on July 17, 2018.

10 The Bureau and Board declarants appeared at the hearing and offered testimony in support of the
11 Bureau's Decision. The Academy also appeared at the hearing and offered testimony.

12 The Academy did not directly refute the Bureau's claim that its students were unfamiliar with
13 timecards and their purpose for tracking the educational program. Ms. Berg testified that based
14 on her observations during the site visit, students walked in at different times throughout the
15 morning and did not understand how the time clocks worked. Further, when students were asked
16 what they had learned the previous days, they could not answer, nor did they have a record of it.
17 When questioning one student about her hours, the student pulled out a time sheet from her bag
18 and there were no hours or operations noted on it, nor was she clocked in for that day. Ms. Berg
19 also testified that she spoke with a student who was interpreting in Chinese in the esthetician
20 room and was asked how many practical operations she had performed on a person, to which she
21 said none, and did not care because she was just going to do eyelash extensions. When two other
22 students were interviewed, it was asked whether they had performed any practical operations,
23 and neither of them had, despite one admitting that she was enrolled since January. Both
24 admitted that they did not have a set schedule and that they could come and go as they please.
25 Another student who had been enrolled since October stated that she had been there for six
26 months but she did not know how to use the time clock. These observations and admissions by
27 students to the Bureau of their lack of understanding for the importance of timekeeping is
28 sufficiently reliable.

1 The lack of knowledge of how to use the time-clock is only one concern. There was also
2 evidence that timecards records were fabricated. The Academy did not offer any evidence to
3 refute its lack of administrative time-record keeping and approval of pristine timecards. In fact,
4 Ms. Hsu, admitted that regarding timecards and record keeping she is “still green” and unfamiliar
5 with the process despite having her signature on the timecards. She admitted that she does not
6 understand the process, as an owner of the Academy for eight-years and even while she herself
7 was a student. Ms. Feist testified that not even one student timecard that was reviewed on April
8 11, 2018, had any creases in it, yet Ms. Hsu signed the timecards that clearly had never been
9 utilized. Ms. Berg corroborated this observation and testified that the timecards appeared precise
10 and as if somebody had just marked them all. Further, Ms. Berg testified that instructors of the
11 Academy were asked how they count hours and operations required by the Board, yet they could
12 not answer. It appears that when timecards are being used, they are not used accurately. Ms. Feist
13 testified that she observed a student arrive at the school and Ms. Feist was provided with the
14 student’s timecard directly from the instructor. It had already been punched earlier in the day,
15 despite Feist witnessing that the student had just arrived.
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17 Regarding the Academy’s adherence to the Bureau’s laws and regulations, in particular, the
18 requirement to teach a health and safety course, Ms. Berg testified that during their site visit, the
19 Academy’s instructor knew nothing about and merely pulled out an outdated 2013 law and
20 regulations book. Further, Ms. Berg observed that none of the instructors had lesson plans. The
21 Board expressed concerns that the students were not being taught what was required.
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23 The Academy did not provide any evidence to refute the claim that it failed to employ
24 qualified instructors for the Cosmetology program. The Academy failed to provide faculty file
25 documents showing the names and addresses of each faculty member, as well as their
26 educational qualifications. Further, on or about August 2016 through April 2018, the Academy
27 continued to enroll students absent the appropriate faculty to accomplish the educational goals of
28 the institution. In interviews with enrolled students, some reported having no teachers available

1 during classroom instruction time or stated that the instructors at the institution were not
2 qualified. Ms. Feist testified that the Academy did not have administrative staff on site, as
3 required. During Ms. Feist testimony, she stated that there was an instructor who was both a
4 manicuring instructor and, also the cosmetology instructor, but was unable to provide any
5 evidence that she had any experience in the cosmetology industry. The instructor could only
6 provide her student file, where she graduated from John Ridgel's as a cosmetology student. She
7 was unable to provide other documentation to demonstrate her qualifications as an instructor.
8 Ms. Berg testified that a manicurist student arrived on April 11, but there was no manicure
9 instructor available that day because she left. Similarly, Ms. Berg testified that a cosmetology
10 student came in, but there was no cosmetology instructor available.
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12 The Academy did not refute the evidence that there was no one available at the Academy to
13 address administrative needs. The Bureau testified that during its investigation, there was no way
14 to access student files, enroll at the school, withdraw from the school, or check on a student's
15 financial standing with the school. The Bureau was informed that only Ms. Hsu was capable of
16 performing enrollment services. Ms. Hsu was not available because she was out of the country.
17 Ms. Hsu acknowledged that she was indeed out of the country and unavailable.

18 The Bureau alleged that during its April 11, 2018 site visit that the Academy's Compliance
19 Director stated that the Academy does not collect or maintain information related to student
20 completion, license exam passage rates, placement, or salary and wage information, as is
21 required by law. The Academy specifically stated that it never had a Compliance Officer. Ms.
22 Hsu referenced two possible Academy employees, who abruptly left the school in May 2018, as
23 the ones who could have made those statements, but Mr. Pao suggested that no one employed by
24 the school would have made such statements. In any event, despite the lack of certainty as to the
25 title of the person making the statements, it was established that such statements were made to
26 three separate Bureau investigators and that the required documents were not available for
27 inspection at the time of the visit. The Academy stated that it did have the supporting documents
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1 available and could produce such documentation now. However, despite the ability to provide
2 that required information at this later time, during the time of the site investigation, such student
3 completion records, exam passage rates, placement and supporting documentation were
4 unavailable, including any persons with knowledge of the requested information.¹

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6 The Academy did not refute the evidence that its courses were taught in a language other
7 than English despite the Academy's approval to teach only in English. Ms. Feist testified that the
8 Academy is only approved to teach in English. If the Academy were approved to teach in a
9 language other than English (i.e. Chinese), it would have been indicated on the approved
10 education program list. Chinese instruction was not included in the approved education program
11 list. Although the applicable code section was not readily available during the hearing, the
12 Bureau is correct that instruction in languages other than English must be approved by the
13 Bureau.² The Academy did not deny that it taught in Chinese. In fact, Ms. Hsu admitted that if
14 the students do not understand English, which is primarily the case, the faculty are instructed to
15 teach the students in Chinese to help the students understand. Further, Ms. Hsu admitted that the
16 study books are bilingual.

17 The Bureau testified to the immediate danger to the public health, safety, and welfare.
18 Specifically, the Bureau stated that the entire educational service model that the Academy relies
19 on is accurate timecard keeping, yet the Academy's owner, instructors and students do not
20 understand this basic concept. Further, despite having owned the Academy for eight years, the
21 owner along with its staff are still unfamiliar with the expectation of running a school, and the
22 requirements associated with it. The Academy did not offer any evidence to refute this claim and
23 in fact made statements admitting to its ignorance and unfamiliarity with the law and its

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27 ¹ Availability and Maintenance of Records is governed by California Code of Regulations §71930 which requires all records that
an institution must maintain be immediately available for inspection and copying during normal business hours and that
personnel be available for such purpose.

28 ² Sec. 5 CCR § 71230.

1 requirements. Further, the Academy made statements confirming that its students were failing
2 the Board's exam and that its students were asking for refunds. The Academy admitted to
3 providing student funds equal to half of the amount paid. However, what remained unclear was
4 whether such funds were partial refunds to the students or loans since Ms. Hsu stated that the
5 students signed agreements that once the student passed the exam, the funds would be repaid.

6 **LEGAL STANDARDS**

7 **I. EMERGENCY DECISIONS**

8 An emergency decision may be issued if there is an immediate danger to the public health,
9 safety, or welfare that requires immediate action to protect students, prevent misrepresentation to
10 the public, or prevent the loss of public funds or moneys paid by students. (Ed. Code, § 94938;
11 Cal. Code Regs., tit. 5, § 75150, subd. (b).) Activities that warrant the Bureau's emergency
12 intervention include fraud, substantial misrepresentations in the institution's performance fact
13 sheet, school catalog, or enrollment agreement, or a substantial failure to meet institutional
14 minimum operating standards. (Cal. Code Regs., tit. 5, § 75150, subd. (b).)

15 The Bureau may order temporary, interim relief in the form of the following:

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- 17 (1) Cease or limit enrollment of new students;
 - 18 (2) Cease part or all instruction for some or all programs;
 - 19 (3) Cease collection of tuition or fees for some or all programs; and
 - 20 (4) Suspend approval or provisional approval to operate or offer any degree programs.

21 (Cal. Code. Regs., tit. 5, § 75150, subd. (c).)

22 Institutions subject to an emergency decision may request an opportunity to be heard before
23 the Director of the Department of Consumer Affairs or his designee. (Cal. Code. Regs., tit. 5, §
24 75150, subd. (f).)

25 **II. APPROVAL AND MINIMUM OPERATING STANDARDS**

26 To operate in California, private postsecondary educational institutions must be approved by
27 the Bureau. (Ed. Code, §§ 94817 & 94886.) Institutions that offer educational programs in a
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1 profession or occupation that requires licensure in California must also be approved by the
2 applicable state licensing entity, in this case, the Board. (Ed. Code, § 94899; Bus. & Prof. Code,
3 § 7362; Cal. Code Regs., tit. 16, § 941.)

4 The Bureau adopted minimum operating standards for approved institutions, and an
5 institution may only operate if it presents sufficient evidence to the Bureau that it can satisfy the
6 standards. (Ed. Code, §§ 94885, 94887 & 94891; Cal. Code Regs., tit. 5, § 71700.)

7 Minimum operating standards are, in part, designed to ensure that the content of each
8 educational program can achieve its stated objective, that upon satisfactory completion of the
9 approved program, the institution gives students a document signifying the degree or diploma
10 awarded, and that adequate records and transcripts are maintained. (Ed. Code, § 94885, subd.
11 (a).)

12 Institutions must adopt objectives for each educational program that describe the kind of
13 education offered, for whom the instruction is intended and the expected outcomes for graduates.
14 (Cal. Code Regs., tit. 5, § 71705.) The educational objective of the Academy's cosmetology,
15 esthetician program, manicurist and teacher trainee/cosmetology program is for students to
16 complete the approved training necessary to take the Board's licensing examinations. (See Ed.
17 Code, § 94899.)

18 Under the Bureau's minimum standards, educational programs must be comprised of the
19 subject areas necessary for a student to achieve the program's objectives. (Cal. Code Regs., tit.
20 5, § 71710, subd. (a).) The standards also require instruction to be the central focus of the
21 resources and services of the institution, and require direct instruction, where students and
22 faculty are physically present in the same location during the instruction. (Cal. Code Regs., tit.
23 5, § 71715.)

24 **III. BOARD LICENSURE REQUIREMENTS**

25 Board applicants for examination and licensure as a cosmetologist, esthetician, or manicurist
26 must complete courses, respectively, in cosmetology, skin care, or nail care from a Board-
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1 approved school. (Bus. & Prof. Code, §§ 7321, 7324, & 7326.) Board examinations are
2 designed to embrace the subjects that are typically taught in Board-approved programs. (Bus. &
3 Prof. Code, § 7338.) Applicants must supply the Board with evidence (i.e., “proof of training”)
4 that they are qualified to take the applicable examination, and for licensure. (Bus. & Prof. Code,
5 § 7337; Cal. Code Regs., tit. 16, § 909.) The proof of training document is prepared by the
6 school where the applicant completed the qualifying training. (Cal. Code Regs., tit. 16, § 909.)
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8 Cosmetology courses must include at least 1,600 hours of practical training and technical
9 instruction in the practice of cosmetology. (Bus. & Prof. Code, § 7362.5; Cal. Code Regs., tit.
10 16, § 950.2.) Approved skin care courses consist of at least 600 hours of practical training and
11 technical instruction, and approved nail care courses consist of at least 400 hours of practical
12 training and technical instruction. (Bus. & Prof. Code, §§ 7364 & 7365; Cal. Code Regs., tit. 16,
13 §§ 950.3 & 950.4.)

14 **DISCUSSION**

15 An emergency decision is proper if there is an immediate danger to the public health, safety,
16 or welfare that requires immediate action to protect students, prevent misrepresentation to the
17 public, or prevent the loss of student money. Circumstances that warrant the Bureau’s
18 intervention include a substantial failure to meet institutional minimum operating standards.
19 (Cal. Code. Regs., tit. 5, § 75150, subd. (b).)

20 Here, the evidence demonstrates the Academy’s substantial failure to meet minimum
21 operating standards with respect to its cosmetology, esthetics, manicurist, and teacher
22 trainee/cosmetology programs. The purpose of the programs is to provide students with the
23 approved education necessary to qualify for the licensure examination and ultimately achieve
24 licensure. (See Ed. Code, § 94899.) The Bureau’s evidence that the school collected money and
25 submitted inaccurate student records to the Board, did not adhere to its instruction schedule, and
26 failed to ensure an accurate and verifiable record of student instruction and performance,
27 sufficiently demonstrates that the Academy’s programs do not consist of the areas needed to
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1 qualify for the licensure examinations, and that instruction is not the central focus of the school's
2 resources and services.

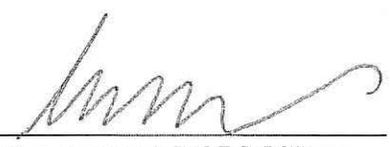
3 The harm to the Academy's students and the public under these circumstances is evident. If,
4 as the Bureau contends and as the evidence indicates, the Academy's students do not complete
5 the educational hours necessary to qualify for the licensing examination, the Academy's students
6 will not receive the education they pay for, and the public may be harmed if unqualified students
7 obtain licensure. The Bureau's immediate action is also necessary to protect students and
8 prevent the loss of their money, in that the purpose of the programs is to prepare students for the
9 Board's licensure examinations, but there is a substantial risk that the Board will not process the
10 Academy's examination applications, given its concerns about the Academy. The passion
11 expressed by the Academy's owner to observe all applicable laws, institute electronic
12 timekeeping, and come into overall compliance with the Bureau and Board's requirements is
13 evident. Yet, notwithstanding such dedication and willingness, the immediate harm to the public
14 and the students remains. The Bureau's Decision is appropriate.
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18 **DECISION**

19 The Bureau's Emergency Decision is AFFIRMED.

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22 DATED

July 18, 2018



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director, Legal Affairs
Department of Consumer Affairs