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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 In the Matter of the Accusation Against:

Case No. 1002495

14 **ORANGE VALLEY COLLEGE, INC.,**
15 **MATTHEW CHOE 50% JOO CHOE 50%**
16 **7138 Westminster Boulevard, Suite B**
17 **Westminster, CA 92683**

A C C U S A T I O N

18 **Approval to Operate**
19 **Institution No. 37953953**

Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Dr. Michael Marion, Jr. (Complainant) brings this Accusation solely in his official
23 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
24 Consumer Affairs.

25 2. On or about August 31, 2004, the Bureau for Private Postsecondary Education
26 (Bureau) issued an Approval to Operate to Institution Number 37953993 to Orange Valley
27 College, Matthew Kyu Choe 50% owner and Joo Choe 50% owner (Respondent). Respondent is
28

1 jointly and equally owned by two owners MC and JC. The Approval to Operate was in full force
2 and effect at all times relevant to the charges brought in this Accusation, and will expire on
3 October 9, 2018. Pursuant to Respondent's Approval to Operate, Respondent is permitted to
4 teach the following programs: Advanced Skin Care, Cosmetology, Esthetician, Manicurist,
5 Massage, Technician and Permanent Make Up Artist.

6 JURISDICTION

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

10 4. Business and Professions Code section 118 states, in part:

11 ...

12 (b) The suspension, expiration, or forfeiture by operation of law of a
13 license issued by a board in the department, or its suspension, forfeiture, or
14 cancellation by order of the board or by order of a court of law, or its surrender
15 without the written consent of the board, shall not, during any period in which it may
16 be 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.

17 (c) As used in this section, 'board' includes an individual who is
18 authorized by any provision of this code to issue, suspend, or revoke a license, and
'license' includes 'certificate,' 'registration,' and 'permit.'"

19 5. Business and Professions Code section 477 states:

20 As used in this division:

21 (a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,'
22 'division,' 'examining committee,' 'program,' and 'agency.'

23 (b) 'License' includes certificate, registration or other means to engage in
a business or profession regulated by this code.

24 6. Section 94937 of the Education Code states:

25 (a) As a consequence of an investigation, which may incorporate any
26 materials obtained or produced in connection with a compliance inspection, and upon
a finding that an institution has committed a violation, the bureau may place an
27 institution on probation or may suspend or revoke an institution's approval to operate
for:

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

1 (2) A material violation or repeated violations of this chapter or
2 regulations adopted pursuant to this chapter that have resulted in harm to students.
3 For purposes of this paragraph, "material violation" includes, but is not limited to,
4 misrepresentation, fraud in the inducement of a contract, and false or misleading
5 claims or advertising, upon which a student reasonably relied in executing an
6 enrollment agreement and that resulted in harm to the student.

7 (b) The bureau shall adopt regulations, within one year of the enactment
8 of this chapter, governing probation and suspension of an approval to operate.

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

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

13 7. Government Code section 11460.60 states:

14 (a) After issuing an emergency decision under this article for temporary,
15 interim relief, the agency shall conduct an adjudicative proceeding under a formal,
16 informal, or other applicable hearing procedure to resolve the underlying issues
17 giving rise to the temporary, interim relief.

18 (b) The agency shall commence an adjudicative proceeding under another
19 procedure within 10 days after issuing an emergency decision under this article,
20 notwithstanding the pendency of proceedings for judicial review of the emergency
21 decision.

22 RELEVANT STATUTES

23 8. Section 94897 states, in part:

24 An institution shall not do any of the following:

25 ...

26 (j) In any manner make an untrue or misleading change in, or untrue or
27 misleading statement related to, a test score, grade or record of grades, attendance
28 record, record indicating student completion, placement, employment, salaries, or
financial information, including any of the following:

...
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(3) Any other record or document required by this chapter or by the
bureau.

(k) Willfully falsify, destroy, or conceal any document of record while
that document of record is required to be maintained by this chapter.

(m) Direct any individual to perform an act that violates this chapter, to
refrain from reporting unlawful conduct to the bureau or another government agency,
or to engage in any unfair act to persuade a student not to complain to the bureau or
another government agency.

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9. Section 94899.5 states, in part:

...

(b) For those programs designed to be four months or longer, an institution shall not require more than one term or four months of advance payment of tuition at a time. When 50 percent of the program has been offered, the institution may require full payment.

...

10. Section 94902 states, in part:

(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 Section 94910. Each of these items in the Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student.

(c) A student shall receive a copy of the signed enrollment agreement, in writing or electronically, regardless of whether total charges are paid by the student.

11. Section 94906 states, in part:

(a) An enrollment agreement shall be written in language that is easily understood. If English is not the student's primary language, and the student is unable to understand the terms and conditions of the enrollment agreement, the student shall have the right to obtain a clear explanation of the terms and conditions and all cancellation and refund policies in his or her primary language.

...

12. Section 94909 states, in part:

(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a prospective student, either in writing or electronically, with a school catalog containing, at a minimum, all of the following:

(1) The name, address, telephone number, and, if applicable, Internet Web site address of the institution.

...

1 (3) The following statements:

2

3 (B) 'As a prospective student, you are encouraged to review this catalog
4 prior to signing an enrollment agreement. You are also encouraged to review the
5 School Performance Fact Sheet, which must be provided to you prior to signing an
6 enrollment agreement.'

7

8 (8) A detailed description of institutional policies in the following areas:

9 (A) Admissions policies, including the institution's policies regarding the
10 acceptance of credits earned at other institutions or through challenge examinations
11 and achievement tests, admissions requirements for ability-to-benefit students, and a
12 list describing any transfer or articulation agreements between the institution and any
13 other college or university that provides for the transfer of credits earned in the
14 program of instruction. If the institution has not entered into an articulation or transfer
15 agreement with any other college or university, the institution shall disclose that fact.

16 ...

17 (10) A statement reporting whether the institution participates in federal
18 and state financial aid programs, and if so, all consumer information that is required
19 to be disclosed to the student pursuant to the applicable federal and state financial aid
20 programs.

21

22 (12) A statement specifying whether the institution has a pending petition
23 in bankruptcy, is operating as a debtor in possession, has filed a petition within the
24 preceding five years, or has had a petition in bankruptcy filed against it within the
25 preceding five years that resulted in reorganization under Chapter 11 of the United
26 States Bankruptcy Code (11 U.S.C. Sec. 1101 et seq.).

27 ...

28 13. Section 94910 states:

Except as provided in subdivision (d) of Section 94909 and Section 94910.5,
prior to enrollment, an institution shall provide a prospective student with a School
Performance Fact Sheet containing, at a minimum, the following information, as it
relates to the educational program:

(a) Completion rates, as calculated pursuant to Article 16 (commencing
with Section 94928).

(b) Placement rates for each educational program, as calculated pursuant
to Article 16 (commencing with Section 94928), if the educational program is
designed to lead to, or the institution makes any express or implied claim related to
preparing students for, a recognized career, occupation, vocation, job, or job title.

(c) License examination passage rates for programs leading to
employment for which passage of a state licensing examination is required, as

1 calculated pursuant to Article 16 (commencing with Section 94928).

2 (d) Salary or wage information, as calculated pursuant to Article 16
3 (commencing with Section 94928).

4 (e) If a program is too new to provide data for any of the categories listed
5 in this subdivision, the institution shall state on its fact sheet: "This program is new.
6 Therefore, the number of students who graduate, the number of students who are
7 placed, or the starting salary you can earn after finishing the educational program are
8 unknown at this time. Information regarding general salary and placement statistics
9 may be available from government sources or from the institution, but is not
10 equivalent to actual performance data."

11 (f) All of the following:

12 (1) A description of the manner in which the figures described in
13 subdivisions (a) to (d), inclusive, are calculated or a statement informing the reader of
14 where he or she may obtain a description of the manner in which the figures
15 described in subdivisions (a) to (d), inclusive, are calculated.

16 (2) A statement informing the reader of where he or she may obtain from
17 the institution a list of the employment positions determined to be within the field for
18 which a student received education and training for the calculation of job placement
19 rates as required by subdivision (b).

20 (3) A statement informing the reader of where he or she may obtain from
21 the institution a list of the objective sources of information used to substantiate the
22 salary disclosure as required by subdivision (d).

23 (g) The following statements:

24 (1) 'This fact sheet is filed with the Bureau for Private Postsecondary
25 Education. Regardless of any information you may have relating to completion rates,
26 placement rates, starting salaries, or license exam passage rates, this fact sheet
27 contains the information as calculated pursuant to state law.'

28 (2) 'Any questions a student may have regarding this fact sheet that have
not been satisfactorily answered by the institution may be directed to the Bureau for
Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet
Web site address), (telephone and fax numbers).'

(h) If the institution participates in federal financial aid programs, the
most recent three-year cohort default rate reported by the United States Department of
Education for the institution and the percentage of enrolled students receiving federal
student loans.

(i) Data and information disclosed pursuant to subdivisions (a) to (d),
inclusive, is not required to include students who satisfy the qualifications specified
in subdivision (d) of Section 94909, but an institution shall disclose whether the data,
information, or both provided in its fact sheet excludes students pursuant to this
subdivision. An institution shall not actively use data specific to the fact sheet in its
recruitment materials or other recruitment efforts of students who are not California
residents and do not reside in California at the time of their enrollment.

14. Section 94911 states, in part:

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

(a) The name of the institution and the name of the educational program, including the total number of credit hours, clock hours, or other increment required to complete the educational program.

...

(g) A statement specifying that, if the student is eligible for a loan guaranteed by the federal or state government and the student defaults on the loan, both of the following may occur:

(1) The federal or state government or a loan guarantee agency may take action against the student, including applying any income tax refund to which the person is entitled to reduce the balance owed on the loan.

(2) The student may not be eligible for any other federal student financial aid at another institution or other government assistance until the loan is repaid.

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

15. Section 94916 states:

An institution extending credit or lending money to an individual for institutional and noninstitutional charges for an educational program shall cause any note, instrument, or other evidence of indebtedness taken in connection with that extension of credit or loan to be conspicuously marked on its face in at least 12-point type with the following notice:

'NOTICE'

You may assert against the holder of the promissory note you signed in order to finance the cost of the educational program all of the claims and defenses that you could assert against this institution, up to the amount you have already paid under the promissory note.

16. Section 94920 states, in part:

...

(b) Institutions shall refund 100 percent of the amount paid for institutional charges, less a reasonable deposit or application fee not to exceed two hundred fifty dollars (\$250), if notice of cancellation is made through attendance at the first class session, or the seventh day after enrollment, whichever is later.

...

RELEVANT REGULATIONS

17. California Code of Regulations, title 5, section 71720 states, in part:

(b) Instructors in an Educational Program Not Leading to a Degree.

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(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.

....

18. California Code of Regulations, title 5, section 71730 states, in part:

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

(b) The duties, responsibilities, and performance evaluation criteria for each administrator shall be set forth in a personnel manual or other writing maintained by the institution. (d) The administrative staffing at each branch location shall reflect the purposes, size, and educational operations at that location and at any satellite location for which the branch has administrative responsibilities.

...

(e) The faculty duties established by the institution as required under subdivision (a)(2) of this section; and,

(f) The institution shall employ administrative personnel who have the expertise to ensure the achievement of the institution's mission and objectives and the operation of the educational programs.

....

19. California Code of Regulations, title 5, section 71735 states:

....

(b) An institution's facilities, including heating and cooling, ventilation, lighting, classrooms, laboratories, and campus environs, shall be well-maintained. The institution shall maintain all valid permits required by any public agencies relating to the health and safety of the institution's facilities and equipment on file, and such permits shall be available to the Bureau upon request.

20. California Code of Regulations, title 5, 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.

21. California Code of Regulations, title 5, 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:

...

1 (d) Date by which the student must exercise his or her right to cancel or
2 withdraw, and the refund policy, including any alternative method of calculation if
3 approved by the Bureau pursuant to section 94921 of the Code.

4 (e) Itemization of all institutional charges and fees including, as
5 applicable:

6 ...

7 (2) registration fee (non-refundable)

8 (3) equipment;

9 ...

10 (12) any other institutional charge or fee.

11 22. California Code of Regulations, title 5, section 71810 states, in part:

12 (a) Each institution shall provide a catalog pursuant to section 94909 of
13 the Code, which shall be updated annually. Annual updates may be made by the use
14 of supplements or inserts accompanying the catalog. If changes in educational
15 programs, educational services, procedures, or policies required to be included in the
16 catalog by statute or regulation are implemented before the issuance of the annually
17 updated catalog, those changes shall be reflected at the time they are made in
18 supplements or inserts accompanying the catalog.

19 (b) The catalog shall contain the information prescribed by Section 94909
20 of the Code and all of the following:

21 ...

22 (7) The institution's policies and procedures for the award of credit for
23 prior experiential learning, including assessment policies and procedures, provisions
24 for appeal, and all charges that a student may be required to pay;

25 ...

26 (9) A description of the facilities and of the types of equipment and
27 materials that will be used for instruction;

28 23. California Code of Regulations, title 5, section 71930 states, in part:

...

(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.

(c) A record is considered current for three years following a student's
completion or withdrawal. A record may be stored on microfilm, microfiche,
computer disk, or any other method of record storage only if all of the following
apply:

1 (1) The record may be stored without loss of information or legibility for
the period within which the record is required to be maintained by the Act;

2

3 (d) The institution shall maintain a second set of all academic and
4 financial records required by the Act and this chapter at a different location unless the
original records, including records stored pursuant to subdivision (b) of this section,
5 are maintained in a manner secure from damage or loss. An acceptable manner of
storage under this subsection would include fire resistant cabinets.

6 (e) All records that the institution is required to maintain by the Act or
7 this chapter shall be made immediately available by the institution for inspection and
copying during normal business hours by the Bureau and any entity authorized to
8 conduct investigations.

9 . .

10 24. California Code of Regulations, title 5, section 74112 states, in part:

11 . . .

12 (m) Documentation supporting all data reported shall be maintained
electronically by the institution for at least five years from the last time the data was
13 included in either an Annual Report or a Performance Fact Sheet, and shall be
provided to the Bureau upon request; and the data for each program shall include at a
14 minimum:

15 (1) the list of job classifications determined to be considered gainful
employment for the educational program;

16 (2) student name(s), address, phone number, email address, program
17 completed, program start date, scheduled completion date, and actual completion
dates;

18 (3) graduate's place of employment and position, date employment
19 began, date employment ended, if applicable, actual salary, hours per week, and the
date employment was verified;

20 (4) for each employer from which employment or salary information was
21 obtained, the employer name(s) address and general phone number, the contact
person at the employer and the contact's phone number and email address, and all
22 written communication with employer verifying student's employment or salary;

23 (5) for students who become self-employed, all documentation necessary
to demonstrate self-employment;

24 (6) a description of all attempts to contact each student. or employer;

25 (7) any and all documentation used to provide data regarding license
26 examinations and examination results;

27 (8) for each student determined to be unavailable for graduation or
28 unavailable for employment, the identity of the student, the type of unavailability, the
dates of unavailability, and the documentation of the unavailability; and

1 (9) the name, email address, phone number, and position or title of the
2 institution's representative who was primarily responsible for obtaining the students'
3 completion, placement, licensing, and salary and wage data, the date that the
4 information was gathered, and copies of notes, letters or emails through which the
5 information was requested and gathered.

6 25. California Code of Regulations, title 5, section 76140 states:

7 (a) A qualifying institution shall collect and maintain records of student
8 information to substantiate the data reported on the STRF Assessment Reporting
9 Form and records of the students' eligibility under the Fund. Such records shall
10 include the following for each student:

- 11 (1) Student identification number,
- 12 (2) First and last names,
- 13 (3) Email address,
- 14 (4) Local or mailing address,
- 15 (5) Address at the time of enrollment,
- 16 (6) Home address,
- 17 (7) Date enrollment agreement signed,
- 18 (8) Courses and course costs,
- 19 (9) Amount of STRF assessment collected,
- 20 (10) Quarter in which the STRF assessment was remitted to the Bureau,
- 21 (11) Third-party payer identifying information,
- 22 (12) Total institutional charges charged, and
- 23 (13) Total institutional charges paid.

24 (b) The qualifying institution shall maintain the data required under this
25 section in an electronic format that is readily available and open to inspection by the
26 Bureau upon request. The institution shall make the records immediately available to
27 a Bureau representative conducting a site inspection or, upon written request, shall
28 provide a copy within 14 calendar days of the request. All records shall be provided
to the Bureau in an intelligible and orderly manner and in an electronic format.

26 26. Business and Professions Code section 125.3 provides, in part, that the Bureau
27 may request the administrative law judge to direct a licentiate found to have committed a
28 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, with failure of the licentiate to comply subjecting the

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1 license to not being renewed or reinstated. If a case settles, recovery of investigation and
2 enforcement costs may be included in a stipulated settlement.

3 **FACTUAL BACKGROUND**

4 27. Between March 6, 2017 and April 16, 2018, the Bureau received five anonymous
5 complaints alleging that students would come to California for a limited time, and receive proof
6 of training that they completed a 400-hour program in Manicuring curriculum from Respondent.
7 The proof of training was then forwarded to Board of Barbering and Cosmetology (BBC), thereby
8 allowing students to sit for the licensing examination.

9 28. On or about May 2, 2018, the Bureau conducted a field investigation in conjunction
10 with an unannounced compliance inspection by Bureau's Compliance Unit. The unannounced
11 compliance inspection was performed in two phases. The first phase included a desk review
12 where the compliance analyst reviewed documentation related to minimum requirements for the
13 Student Tuition Recovery Fund (STRF), institution catalog, Annual Report, School Performance
14 Fact Sheet (SPFS), and the institution's website. The second phase included an onsite inspection
15 by compliance investigators MA, TL, and Bureau investigator PB. Deputy Executive Officer HB
16 and Executive Officer KU from BBC also attended the onsite inspection.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Failure to Complete Enrollment and Language Agreements)**
19 **(Educ. Code § 94902, Educ Code § 94906)**

20 29. Respondent's approval to operate is subject to disciplinary action under
21 Section 94902 in that Respondent failed to maintain an enrollment agreement for the year the
22 student enrolled. The circumstances are as follows:

- 23 a. Student ZW did not have an enrollment agreement in her student file.
24 b. Student TKMC did not sign, date, or initial the enrollment agreement that was in
25 her file.
26 c. Students ZW, HTMN, TL, and TKMC all had enrollment forms for the years
27 2012/2013, when they were enrolled in the year 2016/2017.

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1 30. Moreover, Respondent's approval to operate is subject to disciplinary action under
2 Section 94906 in that Respondent failed to provide Vietnamese translations of required
3 enrollment documents. During the inspection, all students observed were of Vietnamese descent.
4 Inspector MA confirmed that none of the students in class spoke English. Owner MC
5 acknowledged that the school does not have an enrollment agreement, disclosures, or statements
6 in the Vietnamese language. Students were not provided with written materials in their primary
7 language, which hindered their ability to fully understand the program costs, responsibilities, and
8 graduation requirements. Inspector MA interviewed the institution's receptionist, TT, and asked
9 how students understood the English Enrollment Agreement. TT stated she would verbally
10 review the agreement with students.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Misleading or Missing Statements in the Enrollment Agreement and School Catalog)**
13 **(Educ. Code § 94909, Educ. Code § 94911, Educ. Code 94916)**

14 31. Respondent's approval to operate is subject to disciplinary action under
15 Sections 94909, 94911, and 94916 in that Respondent made false or misleading statements
16 relating to the institution and the financial aid program. The circumstances are as follows:

17 a. The enrollment agreement is titled "Enrollment Agreement (California BPPE)"
18 which implies that it is a state issued document created by the Bureau. The Bureau did not issue
19 this agreement.

20 b. The enrollment agreement has two separate statements referencing Title IV and
21 Financial Aid which implies that the school offers financial aid.

22 c. The enrollment agreement does not contain the disclosures required to specify that,
23 if a student is eligible for a loan guaranteed by the federal or state government and that student
24 defaults on the loan, then the federal or state government or a loan guarantee agency may take
25 action against the student, and the student may not be eligible for any other federal government
26 assistance until the loan is repaid.

27 d. The enrollment agreement lists the Massage Therapy Program hours as 50 hours.
28 The catalog indicates the program requires 500 hours.

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1 e. The school catalog implies that students are eligible to receive Federal Title IV
2 financial aid while also providing conflicting information which implies that the school does not
3 offer financial aid.

4 f. The enrollment agreement does not identify the school name, educational program
5 and whether it is a diploma or degree program.

6 g. The enrollment agreement does not contain the required notice that an institution
7 extending credit or lending money to an individual allows the individual to assert claims and
8 defenses against the institution up to the amount paid under the promissory note.

9 h. The school catalog failed to include all components for the required bankruptcy
10 disclosure.

11 i. The school catalog failed to identify whether or not it has entered into any
12 articulation or transfer agreement with any other college or university.

13 j. The school catalog failed to include the required statement that, "students are
14 encouraged to review this catalog prior to signing an enrollment agreement." Inspector MA
15 asked if Receptionist TT provides catalogs to students wishing to enroll in the institution. TT
16 stated that she normally shows the student a catalog but does not provide one because students
17 know what programs that they wish to enroll.

18 k. The school catalog indicates that a student in the massage technician program will
19 be prepared to successfully pass the State Board Examination. There is no State Board
20 Examination for a massage technician license.

21 l. The school catalog indicates that a student may contact the Bureau for a grievance
22 only after they attempt to resolve the matter with the school. A student may contact the Bureau at
23 any time.

24 m. The school catalog failed to include its website address.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Misleading Statements Regarding Attendance and Grades)
3 (Educ. Code § 94897(j), §71920 (b)(2), (b)(5)(A) (b)(9), (b)(10))

4 32. Respondent's approval to operate is subject to disciplinary action under
5 Section 94897 (j) in that Respondent made untrue or misleading statements related to test scores,
6 attendance records, and records indicating student completion. The circumstances are as follows:

7 a. Respondent made an untrue or misleading statement related to the attendance
8 record for students THQ, NQN, and TTT. THQ signed for in/out time on April 30, 2018, signed
9 for time on May 1, 2018, but did not sign in for May 2, 2018. There is no teacher signature on
10 any of these dates. NQN signed for in/out time on April 30, 2018, but did not sign in on
11 May 1, 2018, or May 2, 2018. TTT signed in on April 30, 2018, but did not sign in on
12 May 1, 2018 or May 2, 2018. There is no teacher signature on May 1, 2018 or May 2, 2018.

13 b. At the time of the inspection, there were six time cards all clocked for
14 April 31, 2018. There were only three students in the classroom.

15 c. Student HTMN's file contains a progress report, signed by the student and teacher
16 with all grades populated. HTMN only completed 154 of the 400-hour program.

17 d. Student files for TTP and HQT indicate grades on a progress report. TTP and HQT
18 did not receive instruction at the time of the issuance of the progress report.

19 Students were not provided with instruction for courses in which they would be potentially tested
20 for purposes of obtaining a license.

21 33. During the inspection, Deputy BBC Executive Officer HB expressed concerns to
22 Inspector MA regarding the number of Respondent's students who applied for licensing exams
23 with BBC within the last two years. HB informed MA that BBC received 820 applicants in 2016,
24 573 applicants in 2017, and 61 applicants in 2018 through the date of inspection. The school did
25 not appear to have the staff or room to support the number of students in a one year period.

26 Additionally, the school did not have student files to support the number of applicants. HB
27 pointed out that most of the student files she reviewed contained time cards that were stamped
28 with a consistent time of 10:02 or 10:05. HB believed that it is uncommon for the majority of

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1 students to clock in at the same hour and minute daily. MA reviewed student files and confirmed
2 HB's information to be consistent with the information found in the student files.

3 34. During the onsite inspection, BBC Deputy Executive Officer HB found that
4 Respondent collected money from students for educational programs without offering instruction
5 in those programs. HB concluded that Respondent falsified time cards and sent falsified
6 certifications to BBC indicating that students completed the BBC required training hours and
7 curriculum. HB indicated this practice was called "selling hours." HB stated that as a result of
8 this practice, BBC will not process pending or future applications from students who attend
9 Respondent's institution. Students paid tuition to Respondent and will now be unable to obtain a
10 license or employment in the field of cosmetology, barbering, manicuring, or as an esthetician.

11 35. Inspector MA interviewed Owner MC about why students would travel to California
12 from out of state for a 400-hour manicure program. MC admitted to selling hours to students by
13 signing timecards for students who did not complete the hours required for the program. MC
14 stated that he knew selling hours was wrong. MC stated that he hired someone to punch time
15 cards for him.

16 36. Inspector MA obtained a random sampling of student records. The files did not
17 contain all of the required documentation. The circumstances are as follows:

18 a. Student TD's file contained a blank progress report. The SPFS was not signed or
19 initialed by TD. The file contained a merchant copy of a Visa receipt for \$1,610.00. The school
20 receipt only reflected \$550.00. The program cost \$950.00.

21 b. Student TTP's file reflected a student progress report for the first 400 hours of the
22 program. TTP received a letter grade B for the course "Chemical Hair Straightening", however
23 TTP's time cards reflect that she received no training for this topic until hour 475 of the program.
24 TTP's progress report reflected a grade letter B for the course "Haircutting", however, time cards
25 show she received no training in this subject until hour 595 of the program. TTP's progress
26 report for the first 400 hours of the program indicated TTP received a letter grade B for the course
27 "Scalp/Hair Remove and Makeup". However, time cards show as of March 2018 with 786 hours
28 recorded into the program, TTP has not received any training in these subjects. TTP's progress

1 report also indicates a letter grade B for the course "Manicure, Pedicure, Acrylic Nails, Tips and
2 Wraps", but TTP's time cards do not indicate any training in these areas even though TTP holds a
3 current manicurist license.

4 c. Student HQT's student progress report for the first 400 hours of the program
5 indicates HQT received a letter grade of B for the course "Hair Straightening". However, time
6 cards show HQT did not receive any instruction in this subject until hour 468 of the program.
7 HQT's progress report for the first 400 hours of the program indicates HQT received a letter
8 grade of B for the following courses: "Haircutting, Hair coloring, Bleaching, Scalp/Hair remove,
9 Makeup, Pedicure, Acrylic Nails, Tips and Wraps". However, time cards show that as of April
10 24, 2018 and through completion of 522 hours, HQT has not received any instruction in any of
11 those subjects.

12 d. Student TTCL's file contains all internal school documents that are blank and
13 unsigned, including a blank enrollment agreement. There is no evidence of money received. The
14 progress report is unsigned. Time cards signed by the student do not contain a school signature or
15 time stamps.

16 e. Student ZRW's file does not contain an enrollment agreement. There is no
17 evidence of money received. There is an unsigned proof of training showing completion on
18 September 12, 2017. Time cards are signed by the student but not the school. An inquiry to HB
19 with BBC revealed that this student submitted a completed proof of training from Respondent and
20 is awaiting an exam date.

21 f. Student HN's file shows evidence of money received. Time cards reflect HN
22 completed the required 400 hours, but some handwritten notes indicate HN withdrew from the
23 institution. There is no proof of training or a transcript in the file.

24 g. Student TKMC's file has evidence of money received. TKMC did not sign the
25 enrollment agreement. Time cards indicate TKMC completed the program with 401 hours.
26 However, notes in the file indicate the student agreed to withdraw and will only get credit for 230
27 hours. The file did not contain a refund calculation worksheet.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Collection of Tuition)

3 (Educ. Code § 94899.5)

4 37. Respondent's approval to operate is subject to disciplinary action under
5 Section 94899.5 in that the catalog indicates that the school requires full tuition payment at the
6 beginning of the program. For those programs designed to be four months or longer, an
7 institution may not require more than one term or four months of payment at a time.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 (Minimum Requirements for Instructors in Educational Program Not Leading to a Degree)
10 (Title 5, Cal.Code of Regs., § 71720 (b)(1))

11 38. Respondent's approval to operate is subject to disciplinary action under
12 Section 71720 (b) in that Respondent did not have complete documentation on the four
13 instructors related to the academic, experiential and professional qualifications they possessed to
14 teach. Instructors must possess the academic, experiential, and professional qualifications to
15 teach including a minimum of three years' experience, education, and training in the subject
16 taught. Respondent was unable to provide complete documentation on the four instructors that
17 are duly employed to teach course programs. The circumstances are as follows

18 a. Only one instructor had a resume on file.

19 b. Only two of the instructors files contained proof of three years' experience,
20 education, and training.

21 c. Instructor HP had no documentation on file. Owner MC admitted that HP was a
22 new instructor and he did not have any documentation relating to HP's experience or her resume.

23 d. Respondent could not provide copies of complete Continuing Education units for
24 instructors.

25 **SIXTH CAUSE FOR DISCIPLINE**

26 (Institution Administration Requirements)

27 (Title 5, Cal.Code of Regs., §71730 (a)(b))

28 39. Respondent's approval to operate is subject to disciplinary action under
Section 71730 (a) in that Respondent admitted that the school did not have a chief academic
officer. Inspector MA asked Owner MC who developed education material and classroom
structure. MC stated he hired an outside consultant. Each institution shall have a chief executive

1 officer, a chief operating officer, and a chief academic officer. The chief academic officer must
2 possess a degree or equivalent acceptable experience to the highest qualifications required of the
3 institution's faculty. The duties, responsibilities, and performance evaluation criteria must be set
4 forth in a personnel manual or other writing maintained by the institution.

5 40. Respondent's approval to operate is subject to disciplinary action under
6 Section 71730 (b) in that Owner MC acknowledged there was no manual or other writing
7 maintained by the institution.

8 **SEVENTH CAUSE FOR DISCIPLINE**
9 **(Facilities and Equipment Must Be Well Maintained)**
10 **(Title 5, Cal.Code of Regs., § 71735, § 71930 (b))**

11 41. Respondent's approval to operate is subject to disciplinary action under
12 Section 71735 in that Respondent's facility was not well maintained. During the onsite
13 inspection, Inspectors MA and TL noted that the school appeared disorganized and areas
14 appeared unsanitary. The circumstances are as follows:

- 15 a. The facility restrooms did not have towels for hand drying.
- 16 b. The esthetician room had beds with sheets and blankets that were to be dirty.
- 17 c. The facility had numerous cupboard areas where documents were kept that had
18 what appeared to be rodent droppings and documents that appeared to have been partially eaten
19 by rodents. A file/storage room had files in a counter with a cabinet that had a large amount of
20 rodent feces and documents that were partially eaten by rodents. Student files were stacked in
21 multiple rooms, on the school's floor, and behind the receptionist desk area.
- 22 d. During the onsite inspection, Inspectors MA and TL observed classrooms that were
23 cluttered with miscellaneous cosmetology equipment and unorganized. One room contained a
24 facial bed with soiled linen, a broken light switch that was taped, and a surge protector with an
25 extension cord plugged into it.
- 26 e. The office space assigned to "Advance Skincare Makeup Artist" was cluttered
27 with boxes of student files, graduation gowns, boxes of equipment for manicuring and
28 cosmetology, and two file cabinets for student files. Student files remained stacked throughout
the office, including under the sink.

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EIGHTH CAUSE FOR DISCIPLINE
(Failure to Implement Self Monitoring Procedures)
(Title 5, Cal.Code of Regs., § 71760)

42. Respondent's approval to operate is subject to disciplinary action under Section 71760 in that Respondent did not have self monitoring policies in place. MC acknowledged that the school did not have any such procedure in place.

NINTH CAUSE FOR DISCIPLINE
(Enrollment Agreement Failed to Identify Fees and Charges)
(Title 5, Cal.Code of Regs., § 71800)

43. Respondent's approval to operate is subject to disciplinary action under Section 71800 in that the institution's enrollment agreement fails to identify the non-refundable registration fee, the equipment, and other charges in the itemization of fees. The enrollment agreement does not contain the date by which the student must exercise the right to cancel or withdraw from school.

TENTH CAUSE FOR DISCIPLINE
(Catalog General Description of Equipment Used for Programs and Process for Appeal)
(Title 5, Cal.Code of Regs., § 71810)

44. Respondent's approval to operate is subject to disciplinary action under Section 71810 in that the school catalog failed to provide a general description of the types of equipment used for program instruction. The school did not have a written policy to include the provisions for appeal for the evaluation and award of experiential learning credit.

ELEVENTH CAUSE FOR DISCIPLINE
(Failure to Provide School Performance Fact Sheet)
(Title 5, Cal. Code of Regs., § 74112, §71930 (e))

45. Respondent's approval to operate is subject to disciplinary action under Section 74112 in that Respondent could not provide the data points required for reporting on the SPFS. During the compliance inspection, TL asked MC for the SPFS data. MC informed TL that the school calls the student to see if the student obtained employment and does not maintain a written record.

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1 **TWELFTH CAUSE FOR DISCIPLINE**
2 **(Failure to Link Documents to the School's Website)**
3 **(Title 5, Cal.Code of Regs., § 74117)**

4 46. Respondent's approval to operate is subject to disciplinary action under
5 Section 74117 in that Respondent's home page of its website does not provide links to all the
6 required documents as set forth in Education Code Section 94913(a).

7 **THIRTEENTH CAUSE FOR DISCIPLINE**
8 **(Maintenance of Records)**
9 **(Title 5, Cal.Code of Regs., § 71930 (c)(1)(d)(e))**

10 47. Respondent's approval to operate is subject to disciplinary action under
11 Section 71930 (c)(1) and (d) in that Respondent did not maintain records in proper storage.
12 Records were destroyed by an unknown type of rodent due to the records being stored in an
13 unsecured area. Inspector MA requested to review withdrawn or cancelled student files.
14 Respondent could not provide these files. MA noticed large stacks of student files by the
15 reception area. Respondent acknowledged that these files still needed to be updated in the
16 computer system and may be students who have withdrawn or cancelled. MA informed MC that
17 she found student records unsecured in nearly every room of the institution. MC admitted that
18 this was his mistake and indicated he spoke with staff about returning the files to secured
19 locations. MC stated he does not have anyone on staff to oversee the school on days when he is
20 not present to ensure files are properly stored.

21 **FOURTEENTH CAUSE FOR DISCIPLINE**
22 **(Record Keeping Requirements)**
23 **(Title 5, Cal.Code of Regs., § 76140 §76215)**

24 48. Respondent's approval to operate is subject to disciplinary action under
25 Section 76140 in that Respondent did not properly collect and maintain records of student
26 information to substantiate the data reported to the Student Tuition Recovery Fund (STRF).
27 Records must contain a student identification number, first and last names, email address, local or
28 mailing address, address at the time of enrollment, and home address. During the desk review
related inspection, the Bureau's Administration Unit confirmed that Respondent submitted all
required quarterly STRF Assessment reports. However, during the inspection, Respondent could

1 not provide any data to support the STRF Assessment report. Additionally, the STRF disclosure
2 used by Respondent in the enrollment agreement.


3 **PRAYER**

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

- 7 1. Revoking or suspending the Respondent Approval to Operate, Institution Number
- 8 37953993, issued to Orange Valley College, Inc.;
- 9 2. Ordering the Respondent to pay the Bureau for Private Postsecondary Education the
- 10 reasonable costs of the investigation and enforcement of this case, and,
- 11 3. Taking such other and further action as deemed necessary and proper.

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DATED: 7/20/18


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

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