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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. 1000873

13 **PADMA CORPORATION**
14 **DBA ROSSTON SCHOOL OF HAIR**
DESIGN
15 **1442 W. Holt Avenue**
Ontario, CA 91761

OAH Case No. 2017120064

16 **INSTITUTION CODE: 3600371**

SECOND AMENDED
A C C U S A T I O N

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about June 1, 1981, the Bureau for Private Postsecondary Education (Bureau)
25 issued an approval to Padma Corporation dba Rosston School of Hair Design (Respondent) to
26 operate the following programs: Barber Course, Barber Crossover Course, and Barber Instructor
27 Training.

28 ///

Respondent's approval to operate was in full force and effect at all times relevant to the charges brought herein and will expire on November 26, 2019, unless renewed.

JURISDICTION

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

4. Section 94932 provides:

The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing a compliance inspection or investigation, that an institution has violated any applicable law or regulation, the bureau shall take appropriate action pursuant to this article.

5. Section 94933 provides:

The bureau shall provide an institution with the opportunity to remedy noncompliance, impose fines, place the institution on probation, or suspend or revoke the institution's approval to operate, in accordance with this article, as it deems appropriate based on the severity of an institution's violations of this chapter, and the harm caused to students.

6. California Code of Regulations, Title 5, Section 75100 (Regulation 75100) states:

(a) The Bureau may suspend, revoke or place on probation with terms and conditions an approval to operate.

(b) "Material violation" as used in section 94937 of the Code includes committing any act that would be grounds for denial under section 480 of the Business and Professions Code.

(c) The proceedings under this section shall be conducted in accordance with Article 10 (commencing with Section 11445.10) of Chapter 4.5 or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, as requested by the institution.

7. Business and Professions Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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STATUTORY PROVISIONS

Substantive Changes to an Approval to Operate

8. Education Code section 94893 provides:

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.

9. Code section 94894 defines "substantive changes" requiring prior authorization as follows:

(a) A change in educational objectives, including an addition of a new diploma or a degree educational program unrelated to the approved educational programs offered by the institution.

(b) A change in ownership.

(c) A change in control.

(d) A change in business organization form.

(e) A change of location.

(f) A change of name.

(g) A significant change in the method of instructional delivery.

(h) An addition of a separate branch more than five miles from the main or branch campus.

Prohibited Business Practices

10. Code section 94897 states in pertinent part:

An institution shall not do any of the following:

(a) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on a diploma.

...

(c) Advertise concerning job availability, degree of skill, or length of time required to learn a trade or skill unless the information is accurate and not misleading.

...

(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:

(1) A financial report filed with the bureau.

(2) Information or records relating to the student's eligibility for student financial aid at the institution.

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

...

(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.

...

Merger of classes, method of delivery, location of classes

11. Code section 94898 states in pertinent part:

(a) An institution shall not merge classes unless all of the students have received the same amount of instruction. This subdivision does not prevent the placement of students, who are enrolled in different educational programs, in the same class if that class is part of each of the educational programs and the placement in a merged class will not impair the students' learning of the subject matter of the class.

(b) After a student has enrolled in an educational program, the institution shall not do either of the following:

...

(2) Change the day or time during the period of attendance in which any class is offered to a day when the student is not scheduled to attend the institution or to a time that is outside of the range of time that the student is scheduled to attend the institution on the day for which the change is proposed unless at least 90 percent of the students who are enrolled consent to the change and the institution offers full refunds to the students who do not consent to the change. For the purpose of this paragraph, "range of time" means the period beginning with the time at which the student's first scheduled class session for the day is set to start and ending with the time the student's last scheduled class session for that day is set to finish.

...

(d) An institution shall not move the location of class instruction more than 25 miles from the location of instruction at the time of enrollment unless any of the following occur:

(1) The institution discloses in writing to each student before enrollment in the educational program that the location of instruction will change after the educational program begins and the address of the new location.

(2) The institution applies for, and the bureau grants, approval to change the location. The bureau shall grant the application within 60 days if the bureau, after notice to

1 affected students and an opportunity for them to be heard as prescribed by the bureau,
2 concludes that the change in location would not be unfair or unduly burdensome to
3 students. The bureau may grant approval to change the location subject to reasonable
4 conditions, such as requiring the institution to provide transportation, transportation
5 costs, or refunds to adversely affected students.

6 (3) The institution offers a full refund to students enrolled in the educational program
7 who do not voluntarily consent to the change.

8 (4) An unforeseeable and unavoidable circumstance outside of the control of the
9 institution requires the change in the location of instruction.

10 **Payment of Tuition and Fees**

11 12. Section 94899.5 states in part:

12 ...

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

17 ...

18 **Recordkeeping**

19 13. Section 94900 states:

20 (a) An institution shall maintain records of the name, address, e-mail address, and
21 telephone number of each student who is enrolled in an educational program in that
22 institution.

23 (b) An institution shall maintain, for each student granted a degree or certificate by
24 that institution, permanent records of all of the following:

25 (1) The degree or certificate granted and the date on which that degree or certificate
26 was granted.

27 (2) The courses and units on which the certificate or degree was based.

28 (3) The grades earned by the student in each of those courses.

14. Section 94900.5 states:

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:

(a) The educational programs offered by the institution and the curriculum for each.

(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).

Enrollment Agreements and Disclosures

15. Section 94902 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.

(2) At the time of the execution of the enrollment agreement, the institution held a valid approval to operate.

(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.

16. Section 94904 states:

(a) Except as provided in subdivision (c), before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed by the United States Department of Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.). The student shall not enroll unless the student achieves a score, as specified by the United States Department of Education, demonstrating that the student may benefit from the education and training being offered.

(b) If the United States Department of Education does not have a list of relevant examinations that pertain to the intended occupational training, the bureau may publish its own list of acceptable examinations and required passing scores.

(c) The bureau shall, on or before July 1, 2016, review the list of examinations prescribed by the United States Department of Education. If the bureau determines there is no examination on the list appropriate for ability-to-benefit students with limited English proficiency, the bureau shall approve an alternative examination for these students. When approving the alternative examination, the bureau may consider the Comprehensive Adult Student Assessment System examination.

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1 17. Section 94906, subdivision (b), provides the following: "If the recruitment leading to
2 enrollment was conducted in a language other than English, the enrollment agreement,
3 disclosures, and statements shall be in that language."

4 18. Section 94909 provides, in pertinent part:

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

7 ...

8 (4) The address or addresses where class sessions will be held.

9 (5) A description of the programs offered and a description of the instruction
10 provided in each of the courses offered by the institution, the requirements for
11 completion of each program, including required courses, any final tests or
examinations, any required internships or externships, and the total number of credit
hours, clock hours, or other increments required for completion.

12 ...

13 (7) Information regarding the faculty and their qualifications.

14 ...

15 (9) The schedule of total charges for a period of attendance and an estimated schedule
16 of total charges for the entire educational program.

17 ...

18 (15) The following statement:

19 "NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
20 CREDENTIALS EARNED AT OUR INSTITUTION

21 The transferability of credits you earn at (name of institution) is at the complete
22 discretion of an institution to which you may seek to transfer. Acceptance of the
(degree, diploma, or certificate) you earn in (name of educational program) is also at
23 the complete discretion of the institution to which you may seek to transfer. If the
(credits or degree, diploma, or certificate) that you earn at this institution are not
24 accepted at the institution to which you seek to transfer, you may be required to
repeat some or all of your coursework at that institution. For this reason you should
make certain that your attendance at this institution will meet your educational goals.
This may include contacting an institution to which you may seek to transfer after

25 attending (name of institution) to determine if your (credits or degree, diploma, or
26 certificate) will transfer."

27 ///

28 ///

19. Section 94910 states:

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

(d) (1) Salary or wage information, as calculated pursuant to Article 16 (commencing with Section 94928), if the institution or a representative of the institution makes any express or implied claim about the salary that may be earned after completing the educational program.

(2) Additionally, each institution that offers an educational program designed to lead to a particular career, occupation, vocation, trade, job, or job title shall disclose the wage and salary data for the particular career, occupation, trade, job, or job title, as provided by the Employment Development Department's Occupational Employment Statistics, if that data is available.

...

20. Section 94911 states:

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.

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

(c) In underlined capital letters on the same page of the enrollment agreement in which the student's signature is required, the total charges for the current period of attendance, the estimated total charges for the entire educational program, and the total charges the student is obligated to pay upon enrollment.

(d) A clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by the institution.

(e) (1) A disclosure with a clear and conspicuous caption, 'STUDENT'S RIGHT TO CANCEL,' under which it is explained that the student has the right to cancel the

enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later.

...

(3) The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund.

...

(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.

...

21. Section 94912 states:

Prior to the execution of an enrollment agreement, the information required to be disclosed pursuant to subdivisions (a) to (d), inclusive, of Section 94910 shall be

signed and dated by the institution and the student. Each of these items shall also be initialed and dated by the student.

22. Section 94913 states in pertinent part:

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

(1) The school catalog.

...

(3) Student brochures offered by the institution.

...

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

...

23. Section 94928 states in part:

As used in this article, the following terms have the following meanings:

...

(c) "On-time graduates" means the number of students who complete a program within 100 percent of the published program length. An institution may separately state completion information for students completing the program within 150 percent of the original contracted time, but that information may not replace completion information for students completing within the original scheduled time. Completion information shall be separately stated for each campus or branch of the institution.

(d) "Graduates available for employment" means the number of graduates minus the number of graduates unavailable for employment.

(e)(1) "Graduates employed in the field" means graduates who are gainfully employed in a single position for which the institution represents the program prepares its graduates, beginning within six months after a student completes the applicable educational program. For occupations for which the state requires passing an examination, the period of employment shall begin within six months of the announcement of the examination results for the first examination available after a student completes an applicable educational program.

...

(f) "Graduates unavailable for employment" means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education at an accredited or bureau-approved postsecondary institution.

(g) "Students available for graduation" means the cohort population minus the number of students unavailable for graduation.

(h) "Students unavailable for graduation" means students who have died, been incarcerated, or called to active military duty.

Completion, Placement, Licensure, and Salary Disclosure Requirements

24. Section 94929 states:

(a) An institution shall annually report to the bureau, as part of the annual report, and publish in its School Performance Fact Sheet, the completion rate for each program. Except as provided in subdivision (b), the completion rate shall be calculated by dividing the number of graduates by the number of students available for graduation.

(b) In lieu of calculating graduation data pursuant to subdivision (a), an institution may report graduation data reported to, and calculated by, the Integrated Postsecondary Education Data System of the United States Department of Education.

25. Section 94929.5 states:

(a) An institution shall annually report to the bureau, as part of the annual report, and shall publish in its School Performance Fact Sheet, all of the following:

(1) The job placement rate, calculated by dividing the number of graduates employed in the field by the number of graduates available for employment for each program that is either (1) designed, or advertised, to lead to a particular career, or (2) advertised or promoted with any claim regarding job placement.

(2) The license examination passage rates for the immediately preceding two years for programs leading to employment for which passage of a state licensing examination is required, calculated by dividing the number of graduates who pass the examination by the number of graduates who take the licensing examination the first time that the examination is available after completion of the educational program. The institution shall use state agency licensing data to calculate license examination passage rates. If those data are unavailable, the institution shall calculate the license

examination passage rate in a manner consistent with regulations adopted by the bureau.

(3) Salary and wage information, consisting of the total number of graduates employed in the field and the annual wages or salaries of those graduates stated in increments of five thousand dollars (\$5,000).

...

26. Section 94929.7 states:

(a) The information used to substantiate the rates calculated pursuant to Sections 94929 and 94929.5 shall be documented and maintained by the institution for five years from the date of the publication of those rates. An institution may retain this information in an electronic format.

(b) An institution shall provide a list of employment positions used to determine the number of graduates employed in the field for purposes of calculating job placement rates pursuant to this article.

Compliance, Enforcement, Process, and Penalties

27. Section 94934 states:

(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.

...

(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.

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

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REGULATORY PROVISIONS

Definitions

28. California Code of Regulations, Title 5, Section 70000 (Regulation 70000), provides the following pertinent definitions:

...

(b) "Act" means The California Private Postsecondary Education Act of 2009.

...

(r) "Objectives" are the goals and methods by which the institution fulfills its mission and transforms it into measurable student learning outcomes for each educational program.

Applications for a Substantive Change to an Approval to Operate

29. California Code of Regulations, Title 5, Section 71650 (Regulation 71650), subdivision (a), provides:

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)"

30. California Code of Regulations, Title 5, Section 71660 (Regulation 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.

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Minimum Operating Standards

31. California Code of Regulations, Title 5, Section 71710 (Regulation 71710), states in pertinent part:

In order to meet its mission and objectives, the educational program defined in section 94837 of the Code shall be comprised of a curriculum that includes:

(a) those subject areas that are necessary for a student to achieve the educational objectives of the educational program in which the student is enrolled;

(b) subject areas and courses or modules that are presented in a logically organized manner or sequence to students;

...

32. California Code of Regulations, Title 5, Section 71715 (Regulation 71715), states in pertinent part:

(a) Instruction shall be the central focus of the resources and services of the institution.

(b) The institution shall document that the instruction offered leads to the achievement of the learning objectives of each course.

(c) Direct instruction requires the physical presence of one or more students and one or more faculty members at the same location. Direct instruction includes instruction presented in a classroom, seminar, workshop, lecture, colloquium, laboratory, tutorial, or other physical learning settings consistent with the mission, purposes, and objectives of the institution.

...

33. California Code of Regulations, Title 5, Section 71720 (Regulation 71720), states in pertinent 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.

...

///

1 34. California Code of Regulations, Title 5, Section 71730 (Regulation 71730), states in
2 pertinent part:

3 ...

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

7 ...

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

11 ...

12 35. California Code of Regulations, Title 5, Section 71750 (Regulation 71750),
13 subdivision (f) states:

14 The institution shall maintain a cancellation and withdrawal log, kept current on a
15 monthly basis, which shall include the names, addresses, telephone numbers, and
16 dates of cancellations or withdrawal of all students who have cancelled the enrollment
17 agreement with, or withdrawn from, the institution during the calendar year.

18 **Admissions and Academic Achievement Standards**

19 36. California Code of Regulations, Title 5, Section 71770 (Regulation 71770),
20 subdivision (a), provides;

21 The institution shall establish specific written standards for student admissions for
22 each educational program. These standards shall be related to the particular
23 educational program. An institution shall not admit any student who is obviously
24 unqualified or who does not appear to have a reasonable prospect of completing the
25 program. In addition to any specific standards for an educational program, the
26 admissions standards must specify as applicable that:

27 (1) Each student admitted to an undergraduate degree program, or a diploma program,
28 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.

...
29

30 37. California Code of Regulations, Title 5, Section 71800 (Regulation 71800) states:

31 In addition to the requirements of section 94911 of the Code, an institution shall
32 provide to each student an enrollment agreement that contains at the least the
33 following information:

1 (a) The name and address of the institution and the addresses where instruction will
be provided.

2 (b) Period covered by the enrollment agreement.

3 (c) Program start date and scheduled completion date.

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

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

7 (1) tuition;

8 (2) registration fee (non-refundable);

9 (3) equipment;

10 (4) lab supplies or kits;

11 (5) Textbooks, or other learning media;

12 (6) uniforms or other special protective clothing;

13 (7) in-resident housing;

14 (8) tutoring;

15 (9) assessment fees for transfer of credits;

16 (10) fees to transfer credits;

17 (11) Student Tuition Recovery Fund fee (non-refundable);

18 (12) any other institutional charge or fee.

19 ...

20 38. California Code of Regulations, Title 5, Section 71810 (Regulation 71810) states:

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

25 ...

26 **Maintenance and Production of Records**

27 39. California Code of Regulations, Title 5, Section 71920 (Regulation 71920), states in
28 part:

1 (b) In addition to the requirements of section 94900, the file shall contain all of the
2 following pertinent student records:

3 (1) Written records and transcripts of any formal education or training, testing, or
4 experience that are relevant to the student's qualifications for admission to the
5 institution or the institution's award of credit or acceptance of transfer credits
6 including the following:

7 (A) Verification of high school completion or equivalency or other documentation
8 establishing the student's ability to do college level work, such as successful
9 completion of an ability-to-benefit test;

10 ...

11 (B) Records documenting units of credit earned at other institutions that have been
12 accepted and applied by the institution as transfer credits toward the student's
13 completion of an educational program;

14 ...

15 (4) Records of the dates of enrollment and, if applicable, withdrawal from the
16 institution, leaves of absence, and graduation; and

17 (5) In addition to the requirements of section 94900(b) of the Code, a transcript
18 showing all of the following:

19 (A) The courses or other educational programs that were completed, or were
20 attempted but not completed, and the dates of completion or withdrawal;

21 ...

22 (10) A document specifying the amount of a refund, including the amount refunded
23 for tuition and the amount for other itemized charges, the method of calculating the
24 refund, the date the refund was made, and the name and address of the person or
25 entity to which the refund was sent;

26 ...

27 40. California Code of Regulations, Title 5, Section 71930 (Regulation 71930) states:

28 (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.

...

(d) The institution shall maintain a second set of all academic and 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, are maintained in

a manner secure from damage or loss. An acceptable manner of storage under this subsection would include fire resistant cabinets.

(e) All records that the institution is required to maintain by the Act or 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 conduct investigations...

Reports

41. California Code of Regulations, Title 5, Section 74110 (Regulation 74110), subdivisions (a) and (b), provide:¹

(a) The annual report required by section 94934 of the Code shall include the information required by section 94934 for all educational programs offered in the prior calendar year.

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

...

(d) The annual report shall be electronically filed by submitting the information required by section 94934 of the Code via the Bureau's website, electronically attaching, as directed, the School Performance Fact Sheet and the school catalog. An institution without the capability to submit the information electronically shall inform the Bureau not less than 45 days prior to the date the information is required by subdivision (c), and receive direction on alternative means of submission.

42. California Code of Regulations, Title 5, Section 74112 (Regulation 74112) provides:

(a) Format. The format for the Performance Fact Sheet shall be in at least 12 pt. type, in an easily readable font, with 1.15 line spacing and all titles and column headings shall be in bold 14 pt. type, which shall also identify the program for which the Performance Fact Sheet pertains. The Performance Fact Sheet shall contain all and only the information required or specifically permitted by sections 94910 and 94929.5 of the Code or this chapter. A separate Performance Fact Sheet shall be prepared for each program.

...

(d) In addition to the definitions contained in section 94928 of the Code:

¹ Regulation 74100 was amended effective July 14, 2016. The text of the regulation that were operative at the time of the alleged violations, which were prior to July 14, 2016, has been provided.

(1) "Number of Students Who Began the Program" means the number of students who began a program who were scheduled to complete the program within 100% of the published program length within the reporting calendar year, and excludes all students who cancelled during the cancellation period.

(2) "Number of On-time Graduates" means the number of students who completed the program within 100% of the published program length within the reporting calendar year.

(3) "Gainfully Employed" means:

(A) (i) The graduate is employed in a job classification under the United States Department of Labor's Standard Occupational Classification codes, using the Detailed Occupation (six-digit) level, for which the institution has identified in its catalog and in its employment positions list required by section 94910(f)(2) of the Code that the program prepares its graduates; and

(ii) The graduate is employed in a single position or concurrent aggregated positions totaling at least 30 hours per week for 5 weeks (35 calendar days), or totaling at least 20 hours per week for 5 weeks (35 calendar days) with a statement signed by the graduate stating that he or she chose to seek part-time employment rather than fulltime employment after graduation; or

...

(C) The graduate is self-employed or working freelance as reasonably evidenced by, but not limited to, a business license, fictitious business name statement, advertising (other than business cards), website, or business receipts or other evidence of income from business; or an attestation signed by the graduate of self-employment or freelance work and dated after graduation.

(e) Reporting periods:

(1) An Annual Report shall include data for all educational programs as defined in section 94837 of the Code for the previous one calendar year.

(2) A Performance Fact Sheet shall be current and available not later than December 1st, and shall report data for the previous two calendar years based upon the "number of students who began program" as defined in subdivision (d)(1) of this section and were scheduled to graduate in the reported year(s).

(f) Total Charges. The institution's Annual Report and Performance Fact Sheet shall include the total charges for a student to complete the program within 100% of the program length. The institution must include the disclosure that there may be additional charges if the program is not completed on-time.

Total charges shall be disclosed in the Performance Fact Sheet in a format substantially similar to the format listed below (dates and numbers are for example only):

Cost of Educational Program:

Total Charges for the program for students completing on-time in 20XX:
\$50,000.

Total Charges may be higher for students that do not complete on-time.

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

...

(h) Completion Rates. Reporting of completion rates for an institution's Annual Report and Performance Fact Sheet shall include, for each educational program, the number of students who began the program as defined in subdivision (d)(1) of this section, the number of students available for graduation, number of on-time graduates, and completion rate(s). An optional table may be added to include completion rate data for students completing within 150% of the published program length. For an institution reporting completion data pursuant to section 94929(b) of the Code, completion data shall be separately reported for each program and the Performance Fact Sheet shall disclose, if true, that the completion data is being reported for students completing within 150% of the published program length, and that data is not being separately reported for students completing the program within 100% of the published program length. Programs that are more than one year in length which are reporting 150% Completion Rate will provide four calendar years of data.

Completion rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below (dates, numbers, and other data shown are for example only):

On-time Completion Rates (Graduation Rates) (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

	Number of	Students	Number of	On-time
Calendar	Students Who	Available for	On-time	Completion
Year	Began the Program	Graduation	Graduates	Rate
20XX	100	98	70	71%
20XY	80	80	55	69%

Students Completing After Published Program Length – 150% Completion Rate

Name of Educational Program (Program Length)

	Number of	Students		150%
Calendar	Students Who	Available for	150%	Completion
Year	Began the Program	Graduation	Graduates	Rate
20XX	100	98	95	97%

1	20XY	80	80	78	98%
2	*20XZ	90	90	87	97%
3	*20YA	87	85	74	87%

*Included only if program is more than one year in length

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

(i) Job Placement Rates.

...

(4) Placement rate shall be calculated as follows: the number of graduates employed in the field as defined in section 94928(e)(1) of the Code in conjunction with section 74112(d)(3) divided by the number of graduates available for employment as defined in section 94928(d) of the Code.

Job Placement rates and related disclosures shall be included in the Performance Fact Sheet in a format substantially similar to the charts below, (dates, numbers, and other data shown are for example only):

Job Placement Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)					
Calendar Year	Number of Students Who Began Program	Number of Graduates	Graduates Available for Employment	Graduates Employed in the Field	Placement Rate % Employed in the Field
20XX	100	70	70	55	79%
20XY	80	55	55	20	36%

Gainful Employment Categories (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Part Time vs. Full Time Employment

	Graduates Employed in the field 20 to 29 hours per week	Gradates Employed in the field at least 30 hours per week	Total Graduates Employed In the Field
20XX	15	40	55
20XY	5	15	20

Single Position vs. Concurrent Aggregated Positions

Graduates Employed in the field in a single position	Gradates Employed in the field in concurrent aggregated positions	Total Graduates Employed In the Field
--	---	---

20XX	52	3	55
20XY	19	1	20

Self-Employed/Freelance Positions

Graduates Employed who are self-employed or working freelance	Total Graduates Employed in the Field
--	--

20XX	3	55
20XY	5	20

Institutional Positions

Graduates Employed in the field who are employed by the institution, an employer owned by the institution, or an employer who shares ownership with the institution	Total Graduates Employed in the Field
--	--

20XX	15	55
20XY	5	20

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

...

(j) License Examination Passage Rates. If license examination passage rates are not available from the appropriate state agency, an institution shall collect the information directly from its graduates. If an institution demonstrates that, after reasonable efforts, it is unable to obtain the examination passage information from its graduates, the institution shall report the number of students it could not contact and note in a font the same size as the majority of the data on the Performance Fact Sheet, "License examination passage data is not available from the state agency administering the examination. We were unable to collect data from [enter the number] graduates."

Reporting of license examination passage rates for the Annual Report and the Performance Fact Sheet shall include, for each educational program: the number of

graduates in the reported year, the number of documented graduates who passed the first available examination, number of documented graduates who failed the first available examination, the number of graduates for whom data is not available. An optional column may be added to separately report licensing examination data for graduates who take and pass the exam after failing initially. The Annual Report shall also include a description of the processes for attempting to contact those students.

For licensing examinations that are not continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, (dates, numbers, and other data shown are for example only):

License Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)						
First Available Exam Date	Date Exam Results Announced	Number of Graduates In Calendar Year	Number of Graduates Taking Exam	Number Who Passed Exam	Number Who Failed Exam	Passage Rate
2/1/20XX	3/15/20XX	277	80	40	40	50%
6/1/20XX	7/15/20XX	277	100	75	25	75%
10/1/20XX	11/15/20XX	277	82	68	14	76%
2/1/20XY	3/20/20XX	304	80	40	40	50%
6/1/20XY	7/19/20XX	304	100	70	30	70%
10/1/20XY	11/19/20XX	304	92	62	30	67%

License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 32 graduates.

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

For licensing examinations that are continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

License Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)					
Calendar Year	Number of Students in Calendar Year	Number of Graduates Taking Exam	Number who Passed First Available Exam	Number Who Failed First Available Exam	Passage Rate

20XX	95	80	40	40	50%
20XY	100	100	75	25	75%

License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 10 graduates.

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

(k) Salary and Wage Information.

All Salary and Wage Information shall be reported to the Bureau pursuant to sections 94910(d) and 94929.5(a)(3) of the Code and shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below (dates, numbers, salaries, and other data shown are for example only).

Salary and Wage Information (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Annual Salary and Wages Reported by Graduates Employed in the Field

Calendar Year	Graduates Available for Employment	Graduates Employed in the Field	\$15,000 - \$20,000	\$20,001 - \$25,000	\$25,001 - \$35,000	\$30,001 - \$35,000	No Salary Information Reported
20XX	100	70	5	40	6	3	16
20XY	80	55	5	7	3	5	35

A list of sources used to substantiate salary disclosures is available from the school. (Insert how student can obtain this information.)

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time to read and understand the information.

...

(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 included in either an Annual Report or a Performance Fact Sheet and shall be provided to the Bureau upon request; the data for each program shall include at a minimum:

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

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

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

(4) for each employer from which employment or salary information was 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 written communication with employer verifying student's employment or salary;

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

(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.

(n) The institution shall provide on a separate document along with the Performance Fact Sheet the same cancellation disclosure as that which is required to be included with the enrollment agreement by Section 94911(e)(1) of the Code. The separate document shall be substantially the same size as the Performance Fact Sheet and shall be captioned "STUDENT'S RIGHT TO CANCEL" using bold 14 pt. type.

Student Tuition Recovery Fund

43. California Code of Regulations, Title 5, Section 76120 (Regulation 76120), subdivision (a) provides:

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).

44. California Code of Regulations, Title 5, Section 76130 (Regulation 76130), provides in part:

...

(b) A qualifying institution shall complete the STRF Assessment Reporting Form (Rev. 2/10) and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:

(1) April 30 for the first quarter,

(2) July 31 for the second quarter,

(3) October 31 for the third quarter, and

(4) January 31 for the fourth quarter. If the due date falls on a Saturday, Sunday or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

...

(c) The STRF Assessment report shall contain the following information:

...

(4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and

(5) Total amount of institutional charges after rounding each student's institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and

...

45. California Code of Regulations, Title 5, Section 76140 (Regulation 76140), subdivision (a) provides:

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,

1 (12) Total institutional charges charged, and

2 (13) Total institutional charges paid.

3 46. California Code of Regulations, Title 5, Section 76215 (Regulation 76215) provides:

4 (a) A qualifying institution shall include the following statement on both its
5 enrollment agreement and school catalog:

6 "The State of California established the Student Tuition Recovery Fund (STRF) to
7 relieve or mitigate economic loss suffered by a student in an educational program at a
8 qualifying institution, who is or was a California resident while enrolled, or was
9 enrolled in a residency program, if the student enrolled in the institution, prepaid
tuition, and suffered an economic loss. Unless relieved of the obligation to do so, you
must pay the state-imposed assessment for the STRF, or it must be paid on your
behalf, if you are a student in an educational program, who is a California resident, or
are enrolled in a residency program, and prepay all or part of your tuition.

10 You are not eligible for protection from the STRF and you are not required to pay the
11 STRF assessment, if you are not a California resident, or are not enrolled in a
residency program."

12 (b) In addition to the statement required under subdivision (a) of this section, a
13 qualifying institution shall include the following statement in its school catalog:

14 "It is important that you keep copies of your enrollment agreement, financial aid
15 documents, receipts, or any other information that documents the amount paid to the
16 school. Questions regarding the STRF may be directed to the Bureau for Private
Postsecondary Education, 2535 Capitol Oaks Drive, Suite 400, Sacramento, CA
95833, (916) 431-6959 or (888) 370-7589.

17 To be eligible for STRF, you must be a California resident or enrolled in a residency
18 program, prepaid tuition, paid or deemed to have paid the STRF assessment, and
suffered an economic loss as a result of any of the following:

19 1. The institution, a location of the institution, or an educational program
20 offered by the institution was closed or discontinued, and you did not choose to
participate in a teach-out plan approved by the Bureau or did not complete a
chosen teach-out plan approved by the Bureau.

21 2. You were enrolled at an institution or a location of the institution within the
22 120 day period before the closure of the institution or location of the institution,
or were enrolled in an educational program within the 120 day period before the
23 program was discontinued.

24 3. You were enrolled at an institution or a location of the institution more than
25 120 days before the closure of the institution or location of the institution, in an
educational program offered by the institution as to which the Bureau
26 determined there was a significant decline in the quality or value of the program
more than 120 days before closure.

27 4. The institution has been ordered to pay a refund by the Bureau but has failed
to do so.

28 5. The institution has failed to pay or reimburse loan proceeds under a federal

student loan program as required by law, or has failed to pay or reimburse proceeds received by the institution in excess of tuition and other costs.

6. You have been awarded restitution, a refund, or other monetary award by an arbitrator or court, based on a violation of this chapter by an institution or representative of an institution, but have been unable to collect the award from the institution.

7. You sought legal counsel that resulted in the cancellation of one or more of your student loans and have an invoice for services rendered and evidence of the cancellation of the student loan or loans.

To qualify for STRF reimbursement, the application must be received within four (4) years from the date of the action or event that made the student eligible for recovery from STRF.

A student whose loan is revived by a loan holder or debt collector after a period of noncollection may, at any time, file a written application for recovery from STRF for the debt that would have otherwise been eligible for recovery. If it has been more than four (4) years since the action or event that made the student eligible, the student must have filed a written application for recovery within the original four (4) year period, unless the period has been extended by another act of law.

However, no claim can be paid to any student without a social security number or a taxpayer identification number.”

COST RECOVERY

47. Section 94937 states in part:

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

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

48. Business and Professions Code section 125.3 provides, in pertinent part, that the Bureau may request the administrative law judge to direct a licensee 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL BACKGROUND

49. On or about February 17, 2015, the Bureau conducted a compliance inspection which found a number of violations of the Code and Regulations and resulted in an investigation being opened.

1 50. On or about February 10, 2016, the Bureau conducted a field investigation of
2 Respondent at which time students and staff were interviewed and documents were collected. In
3 addition, documents were requested from Respondent before and after the field investigation.
4 The investigation was completed on or about October 20, 2016.

5 51. On or about June 5, 2018, the Bureau received additional documents from
6 Respondent, including 2017 financial statements, an updated 2017/2018 School Catalog, student
7 files, the 2015/2016 School Performance Fact Sheet and the 2016 Annual Report. The additional
8 documents submitted demonstrated some violations had been corrected, but also that new
9 violations existed.

10 52. On July 27, 2018, the Bureau received an anonymous complaint that Respondent did
11 not have instructors present during school hours, it was not providing a quality education and was
12 not providing refunds to students who withdraw.

13 53. A review of Respondent's website on September 21, 2018, revealed that the school
14 posted its 2016/2017 School Catalog on its website, instead of its most current School Catalog.
15 The 2016/2017 School Catalog advertises a Barber Crossover Course (200 hours) and a
16 Barber/Cosmetology Apprenticeship program for which Respondent had no approval. There
17 were also inaccuracies in Respondent's 2015/2016 SPFS regarding completion rates, job
18 placement rates, part time vs. full time employment data, license examination passage rates,
19 salary and wage information, among other things.

20 54. Although Respondent requested the Barber Crossover program be eliminated from its
21 approved programs, Respondent continued to advertise and offer the program to students
22 currently enrolling in the school. The 2015/2016 SPFS indicates the cost of the Barber Crossover
23 program in 2016 was \$5950. According to the 2016 Annual Report and School Catalog, the cost
24 for the Barber Crossover program is \$1500.

25 55. L.F., a Bureau investigator conducted an investigation of the school at its new
26 location in Ontario on September 26, 2018. Respondent changed its location from Moreno
27 Valley to Ontario, California. Respondent's former Administrative Assistant employed the
28

1 Moreno Valley campus, destroyed all records of attendance for students who attended at that
2 location.

3 56. During the visit on September 26, 2018, L.F. requested to speak with a school
4 administrator. She was directed to V.M. V.M. had been employed by Respondent for about nine
5 months and had no previous experience managing a school. V.M. works part-time for the school
6 and when she is not at the school, the instructors handle some of the administrative tasks.

7 57. While at the school, L.F. observed a flyer for a Barber/Cosmetologist Apprenticeship
8 program. V.M. did not have a curriculum for the apprenticeship program but explained that
9 Respondent charges \$4,000 for the apprenticeship program and that the prospective student is
10 responsible for finding a licensed barber or cosmetologist to "sponsor" them and the student then
11 attends the school for the 39 hours of prerequisites. Respondent does not have an approval to
12 advertise or offer this program.

13 58. At approximately 12:48 p.m. on September 27, 2018, L.F. visited the school with
14 representatives of the Board of Barbering and Cosmetology (BBC). At the time of their visit, two
15 students were performing services on consumers without the supervision of an instructor. One of
16 the students was using a straight razor to provide a shave to the consumer. At 1:35 p.m., no
17 instructors had checked on the students who were providing services. Ten other students were
18 present on campus at the time. Some of the students were studying their textbooks, while others
19 were engaged in conversation with each other. The only instructor present was eating lunch in
20 the back of the campus. No direct instruction was taking place.

21 59. Interviews on campus revealed the students' progress in the program regarding the
22 number of theory hours and/or practical instruction was not documented. On the other hand, each
23 time a student provides a service, receipts of payment for services were recorded. In addition,
24 students who were in different stages of participation in the program were all in one class because
25 of the limited number of classes and instructors. Respondent's staff advised L.F. that students
26 come and go frequently and staff did not know how many students were currently enrolled in the
27 school. None of the students interviewed had been provided with the 2018 BBC Law and
28 Regulations, required for the curriculum and listed as required text in Respondent's 2018/2019

1 School Catalog. Respondent was not providing instruction in the Health and Safety curriculum
2 provided to schools by BBC, another required curriculum.

3 60. While on site, L.F. requested a copy of the Cancellation/Withdrawal log. Respondent
4 did not have such a log. When a student wants to withdraw from the school, the student is asked
5 to explain the reason for withdrawal and Respondent's staff will calculate what the student owes
6 the school.

7 61. While on site, L.F. also requested to review student files for active students,
8 graduated students and withdrawn students. Student files were stored in bankers boxes in the
9 administrative office. L.F.'s review of the student files revealed deficiencies in Respondent's
10 maintenance of records.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Change in Educational Objectives Without Prior Bureau Authorization)**

13 62. Respondent's approval to operate is subject to disciplinary action under Section
14 94893 and 94894(g) and Regulations 70000(r) and 71650(a), in that Respondent made a
15 substantive change to its approval and/or changed its educational objectives without obtaining
16 prior Bureau authorization. The circumstances of this conduct are as follows:

17 a. On or about February 10, 2016, a Bureau investigator observed video tutorials
18 being provided in Spanish. Respondent's staff confirmed that some of their students speak
19 Spanish, and Respondent sometimes provides instruction in Spanish. The investigator also found
20 a flier written in Spanish that advertised Respondent's Barbering course.

21 b. As of October 20, 2016, Respondent's educational objectives did not include
22 offering instruction in Spanish, and Respondent did not apply to the Bureau for approval to
23 change its educational objectives prior to advertising in Spanish and offering courses taught in
24 Spanish.

25 c. Respondent did not apply to the Bureau for approval to offer instruction in
26 Spanish, which is a substantive to change to Respondent's approval to operate.

27 d. Respondent advertises and offers a Barber/Cosmetology Apprenticeship
28 program prior to receiving approval from the Bureau to offer the program.

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1 b. Respondent's enrollment agreement with W.S. and M.T. did not contain the
2 program start and completion dates, as required by Regulation 71800(c).
3 c. Respondent's enrollment agreements with M.F., E.D., L.B., E.M., N.P., M.T.,
4 A.P. and L.C., did not contain the date by which the student must exercise her/her right to cancel,
5 and T.C.'s enrollment agreement as required by Regulation 71800(d).
6 d. Respondent's enrollment agreement with E.D. (enrolled February 10, 2015) did
7 not contain any itemized charges, as required by Regulation 71800(e)(1-12).
8 e. In or around February 2015 through September 2018, Respondent did not
9 provide catalogs and/or Student Performance Fact Sheets to students prior to having them sign
10 enrollment agreements, which is required by Section 94902(b)(1) and (b)(3).
11 f. Respondent's enrollment agreement with E.D. was not signed by an institution
12 representative, as required by Section 94902(a).
13 g. Respondent did not provide an enrollment agreement or disclosures in Spanish,
14 although it advertises its Barber program in Spanish. This is a violation of Section 94906(b).
15 h. Respondent's enrollment agreement has an incomplete "transfer of credits"
16 disclosure, which does not comply with Section 94909(a)(15).
17 i. Respondent's enrollment agreements with M.F. and E.D. incorrectly stated the
18 program name, and W.S.'s enrollment agreement did not have the name of the program listed,
19 and the enrollment agreement with M.T. and R.C. failed to identify the number of hours to
20 complete the program, both of which are required by Section 94911(a).
21 j. The tuition and fees listed in the enrollment agreements of E.M., N.P. A.T. and
22 J.G. do not match those published in the applicable School Catalog, which is a violation of
23 Regulation 71800(e).

24 A) The 2017/2018 School Catalog stated tuition was \$4,719 and registration
25 fees were \$88.00. E.M. was charged \$5,950 in tuition and \$100 for registration.
26 fees. A.T., J.G. and T.C. were charged \$4,710 in tuition and \$100 for registration.

27 I. T.C.'s student file also contained a document with a "disclosure"
28 for a "Mandatory Fcc" of \$200.00 for registration of a student who re-enrolls. This

1 fee is not disclosed in the 2017/2018 School Catalog. The form also contained the
2 following language:

3 "If a student exceeds the time frame outlined in the Agreement, an extra
4 time charge is required for the balance of hours required and/or the
completion of the course. ... The current rate is \$5.00/hour."

5 This fee was required to be disclosed in the enrollment agreement and in the
6 2017/2018 School Catalog, but was not in either document, which is a violation of
7 94911(b) and Regulation 71800(e).

8 B) The 2018/2019 School Catalog stated tuition was \$4,719, registration fees
9 were \$88.00, book fees were \$175 and tool fees were \$575.00. The School Catalog
10 stated total charges were \$5950. N.P. was charged \$5,192.33 in tuition, \$100 for
11 registration fees, \$267.05 for book fees, and \$940.62 for tool fees. N.P. paid total
12 charges of \$6,500.

13 k. Students N.P., M.T., A.G., D.M., A.T. and L.C. were charged fees that were not
14 itemized in the enrollment agreements, which is a violation of Regulation 71800(e)(12):

15 A) N.P.'s student file also contained a piece of paper that stated there was
16 also a \$35 service fee and a \$25 collection fee that were not included in the itemized
17 fees in the enrollment agreement.

18 B) The student files of M.T., A.G., D.M., and L.C. contained a piece of
19 paper that stated there was a \$5 per hour charge for going over the length of the contracted
20 completion date, a \$35 service fee and a \$25 collection that that were not in the itemized
21 fees in the enrollment agreement.

22 C) The student file of A.T. contained an untitled document that included a
23 statement that returned checks are subject to a \$35 service charge and that unpaid balances
24 will be subject to a \$25 per month collection fee. The EA signed by A.T. stated that
25 returned checks are subject to a \$15 charge. The 2017/2018 School Catalog stated that
26 returned checks are subject to a \$15 charge. Neither A.T.'s enrollment agreement nor in the
27 2017/2018 School Catalog disclosed the \$25 collection fee as required by Regulation
28 71800(e).

1. The enrollment agreements of N.P., D.M., A.T., L.C. and T.C. did not accurately identify the charges for a period of attendance, a violation of Code section 94911(c).

m. The enrollment agreements of E.M. M.T., D.M., R.C., A.T., L.C., J.G. and T.C. failed to contain program information in the disclosures regarding transferability of credits, a violation of section 94909(a)(15).

n. The enrollment agreements of A.T., J.G. and T.C. included a line item for “Charges due upon enrollment” that reflected the total charges for the program, a violation of Code section 94899.5(b).

o. The enrollment agreements of A.T. and T.C. failed to accurately state the address of the school and the address where instructions will be provided and where to give notice of cancellation, and T.C.'s enrollment agreement stated T.C. must exercise his/her right to cancel three days before the start of the first class section, violations of Regulation 71800(a) and Code section 94911(e).

p. The enrollment agreements of A.T., J.G. and T.C. contained a “Graduation Requirements” disclosure that the Barber Crossover program required 400 hours of instruction. However, the 2017/2018 School Catalog advertised a 200 hour Barber Crossover program. This is a violation of Code section 94911(a).

FOURTH CAUSE FOR DISCIPLINE

(Failure to Comply with General Enrollment Requirements)

65. Respondent's approval to operate is subject to disciplinary action under Regulation 71770(a), in that Respondent admitted students who did not comply with the program standards. The circumstances of this conduct are as follows:

a. The student file for M.F., who was enrolled in the Barber Crossover program, did not contain a document showing admission qualifications for the program, such as a transcript showing previous education, proof of training document, or an active cosmetologist license.

b. Several student files, such as the files of A.P. and D.M., did not contain copies of a high school diploma or its equivalency or proof of an examination meeting the requirements of Education Code section 94904.

1 c. The student file for L.C. did not contain proof of hours completed at a different
2 school that were applied towards the completion of the program at Respondent school, which
3 would have demonstrated that the student was qualified for admission to the program.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Requirements For School Catalog)**

6 66. Respondent's approval to operate is subject to disciplinary action under Section
7 94909(a) and Regulation 71810, in that Respondent's 2015/2016 School Catalog did not contain
8 all of the required information, and Respondent did not provide every student with a school
9 catalog before having them sign an enrollment agreement. The circumstances of this conduct are
10 as follows:

11 a. Students E.T. and M.M said they were not provided a catalog prior to signing
12 an enrollment agreement, as required by Section 71810(a) and Section 94909(a).

13 b. Respondent's 2015/2016 School Catalog did not contain program information
14 for the Barber Instructor course offered by Respondent, which is a violation of Section
15 94909(a)(5). The catalog also contains conflicting information about the length of Respondent's
16 programs. On page 10, the Barbering course is listed as taking 39.5 weeks, but on page 16, the
17 course is listed as taking 36 weeks. The Barber Crossover course is listed as a 200-hour program,
18 but the curriculum includes 350 hours of required study. The 2017/2018 School Catalog states
19 the Barber Crossover program is 200 hours, but the curriculum includes 215 hours of theory
20 instruction and 125 hours of practical operations.

21 c. Respondent's 2015/2016 School Catalog did not contain a schedule for total
22 charges for a period of attendance and an estimated schedule of total charges for the entire
23 educational program, as required by Section 94909(a)(9).

24 d. Respondent's 2018/2019 School Catalog does not contain information
25 regarding the Barber/Cosmetology Apprenticeship Program that Respondent currently offers and
26 advertises, as required by Code section 94909(a)(5).

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1 e. Respondent's 2018/2019 School Catalog does not include sufficient
2 information regarding the faculty and their qualifications, as required by Code section
3 94909(a)(7).

4 f. Respondent's 2018/2019 School Catalog does not set forth the correct amount
5 in total charges, as required by Code section 94909(a)(9) in that the school is charging total
6 charges of \$6,500 but the 2018/2019 School Catalog states total charges of \$5950.

7 **SIXTH CAUSE FOR DISCIPLINE**

8 **(Failure to Maintain Required Student and Institutional Records)**

9 67. Respondent's approval to operate is subject to disciplinary action under Sections
10 94900(b), and 94900.5(a) and (b), and Regulations 71920 and 71930, in that Respondent failed to
11 maintain the records required under the Act and Regulations. The circumstances of this conduct
12 are as follows:

13 a. Respondent does not maintain records of previous education which would
14 qualify a student for enrollment in the Barber Crossover program, including proof of training
15 documents, evidence of licensure, or transcripts from previous institutions attended, which is
16 required for admission to the Barber Crossover program. This is a violation of Regulation
17 71920(b)(1).

18 b. Respondent does not maintain proof of high school graduation or its
19 equivalency for its enrolled students, which is required by Regulation 71920(b)(1)(A).

20 c. Respondent does not maintain records of the dates of cancellation or
21 withdrawal by students, including paperwork showing funds received and possible refund that
22 would be required. This is a violation of Regulation 71920(b)(4).

23 A) For example, the student file for E.M., a graduated student, did not
24 contain documentation of the dates of attendance, withdrawal, or completion. Because
25 Respondent lost all records of attendance for students who attended its previous location in
26 Moreno Valley, Respondent was only able to provide proof of 817.24 hours of E.M.'s attendance.

27 d. Respondent does not maintain transcripts for students that have graduated,
28 which is required by Regulations 71920(b)(5)(A) and 71930(b)(1) and Section 94900(b).

1 e. Respondent does not maintain information regarding placement rates for its
2 students that have graduated, which is required by Sections 94910 and 94929.5. The failure to
3 maintain records required under the Act is a violation of Regulation 71930(a) and Section
4 94900.5(c).

5 f. Respondent does not maintain student files in a manner that is secure from
6 damage or loss and does not maintain a second set of the files, which is a violation of Regulation
7 71930(d).

8 g. During the investigation by the Bureau on February 10, 2016 and/or September
9 26, 2018, Respondent was unable to provide copies of its faculty list, faculty files, financial
10 statements, and Respondent's current SPFS, which are records required to be maintained under
11 the Act and made immediately available to the Bureau during normal business hours. This is a
12 violation of Regulation 71930(a) and (e), and Section 94900.5(b).

13 h. Respondent's files for students E.D. and W.S. did not contain graduation
14 certificates or transcripts showing the courses taken or grades earned by the students, which
15 information is required to be maintained for graduates under Section 94900(b)(1), (2), and (3).

16 i. Respondent's file for L.C. did not contain proof of hours completed at a
17 different school that were applied towards the completion of the program at Respondent school,
18 which would have demonstrated that the student was qualified for admission to the program, in
19 violation of Regulation 71920(b)(1)(A).

20 j. Respondent offers the Barber/Cosmetology Apprenticeship program but does
21 maintain a record of the curriculum for the program in violation of Code section 94900.5(a).

22 k. Respondent's file for N.P. does not contain a document specifying the amount
23 of refund given to N.P. that includes the method of calculating the refund, in violation of
24 Regulation 71920(b)(10).

25 **SEVENTH CAUSE FOR DISCIPLINE**

26 **(Failure to Maintain a Cancellation and Withdrawal Log)**

27 68. Respondent's approval to operate is subject to disciplinary action under Regulations
28 71750(f) and 71920(b)(1) and (4), in that Respondent failed to maintain a withdrawal log, kept on

1 a monthly basis, which includes the names, addresses, telephone numbers, and dates of
2 cancellations or withdrawal of all students who have cancelled the enrollment agreement with, or
3 withdrawn from, Respondent school during the calendar year.

4 **EIGHTH CAUSE FOR DISCIPLINE**

5 **(Failure to Meet Minimum Requirements for Student Performance Fact Sheet)**

6 69. Respondent's approval to operate is subject to disciplinary action under Code sections
7 94910(a)-(d), 94912, 94929(a), 94929.5 and 94929.7 and Regulation 74112 in that Respondent's
8 Student Performance Fact Sheets (SPFSs) do not contain the required information as follows:

9 a. The 2014 SPFS did not include information for the Barber Instructor Training
10 program, although the program was still being offered during that time period. This is a violation
11 of Sections 94910(a)-(d) and 94929.5(a) and Regulation 74112(e)(1) [formerly 74112(c)(1)].

12 b. The 2014 SPFS did not include data for the previous two calendar years, as
13 required by Section 94929.5(a)(2) and Regulation 74112(e)(2) [formerly 74112(c)(2)].

14 c. The license examination passage rates in the 2014 SPFS and the 2015/2016
15 Barber SPFS and 2015/2016 Barber/Crossover SPFS did not match the results reported by the
16 Board of Barbering and Cosmetology for the exams. Accordingly, Respondent did not report
17 license examination passage rates calculated pursuant to Article 16 of the Act, which is a
18 violation of Section 94910(c).

19 d. The 2014 SPFS did not include Placement Rate information, as required by
20 Section 94910(b) and Regulation 74112(i) [formerly 74112(e)].

21 e. Respondent does not maintain backup documentation for its 2014 SPFS that
22 meets the requirements under Regulation 74112(m) [formerly 74112(h)]. The SPFS backup
23 documentation did not include exam passage information, place of employment, position, salary,
24 hours, a description of all attempts to contact each student, as well as the name, email address,
25 phone number, and position or title of the institution's representative who is primarily responsible
26 for obtaining students' completion, placement, licensing, and salary and wage data. The
27 documentation also does not include the date the information was gathered, copies of notes,
28 emails, or letters through which the information was gathered.

1 f. The backup documentation for the 2013/2014 SPFS did not match the data
2 reported in the 2013/2014 SPFS, which is a violation of Section 94910(a)-(d).

3 g. Respondent enrolled students without first providing them a SPFS, which is a
4 violation of Sections 94902, 94910, and 94912.

5 h. Respondent did not document and maintain all of the information necessary to
6 substantiate the performance data reported in its 2014 SPFS, which is a violation of Section
7 94929.7.

8 i. The 2015/2016 Barber SPFS does not accurately report completion rates, in
9 violation of Code sections 94910(a) and Regulation 74112(h) [formerly 74112(e)(4)], as follows:

10 A) The 2015/2016 Barber program SPFS table indicates a 100% completion for
11 students who were eligible to graduate, but Respondent erroneously calculated the on-time
12 completion rate and reported a 68% completion rate for 2015 and 86% for 2016, which is
13 an untrue statement.

14 B) Similarly, the 2015/2016 Barber Crossover SPFS does not accurately report
15 completion rates. Respondent erroneously calculated the on-time completion and reported
16 50% completion for students who were eligible to graduate for 2016, when three of three
17 students eligible for graduation reportedly graduated.

18 j. The 2015/2016 Barber SPFS did not accurately report Job Placement Rates, in
19 violation of Code sections 94910(b), 94929.5(a) and Regulation 74112(i), as follows:

20 A) The table of Job Placement Rates lists zero graduates employed in the
21 field for 2015 and 2016, but the table of "Gainfully Employed" listed between 3 and 37
22 graduates employed in the field.

23 B) The table of Part Time vs. Full Time Employment stated that in 2015
24 there were 20 graduates employed part time, and 17 graduates employed full time, but
25 stated the total graduates employed in the field is 17. The table stated that in 2016, six
26 graduates were employed part time and three graduates were employed full time, for a total
27 of three graduates.

28 ///

1 C) The table of Single Position vs. Concurrent Aggregated Position stated
2 that in 2015, 20 graduates were employed part time, and 17 graduates were employed in
3 Concurrent Aggregated Positions, but stated the total graduates employed in the field was
4 17. The table stated that in 2016, six graduates were employed part time and three
5 graduates were employed in Concurrent Aggregated Positions, but stated there was a total
6 of three graduates employed in the field.

7 D) The table of Self Employed/Freelance stated that in 2015, there were 20
8 graduates reporting as Self Employed, but stated there was a total of 17 graduates employed
9 in the field. The table for 2016 stated six graduates reported being self employed position,
10 but stated there was a total of three graduates employed in the field.

11 E) The table of Institutional Employment stated that in 2015, 20 graduates
12 were employed by the institution, but stated there was a total of 17 graduates employed in
13 the field. The table for 2016 listed 6 graduates were employed by the institution, but stated
14 there was a total of 3 graduates employed in the field.

15 I. The 2015/2016 Barber Crossover SPFS does not accurately report Job
16 Placement Rates, in violation of Code sections 94910(b), 94929.5(a)(1) and Regulation 74112(i),
17 as follows:

18 A) The table of Job Placement Rates listed zero graduates employed in the
19 field for 2015 and 2016, but the table of "Gainfully Employed" listed between 3 and 37 graduates
20 employed in the field. However, only 26 students were enrolled in the program in 2015 and
21 2016.

22 B) The table of Part Time vs. Full Time Employment stated that in 2015
23 there were 20 graduates employed part time, and 17 graduates employed full time, but stated the
24 total graduates employed in the field was 17. The table stated that in 2016, six graduates were
25 employed part time and three graduates were employed full time, but stated there was a total of
26 three graduates employed in the field.

27 C) The table of Single Position vs. Concurrent Aggregated Position stated
28 that in 2015, 20 graduates were employed part time, and 17 graduates were employed in

1 Concurrent Aggregated Positions, but stated the total graduates employed in the field was 17.
2 The table stated that in 2016, six graduates were employed part time and three graduates were
3 employed in Concurrent Aggregated Positions, but stated there was a total of three graduates
4 employed in the field.

5 D) The table of Self Employed/Freelance stated that in 2015, there were 20
6 graduates reporting as Self Employed, but stated there was only a total of 17 graduates employed
7 in the field. The table for 2016 stated six graduates reported being self employed position, but
8 stated there was a total of three graduates employed in the field.

9 E) The table of Institutional Employment stated that in 2015, 20 graduates
10 were employed by the institution, but stated there was a total of 17 graduates employed in the
11 field. The table for 2016 listed 6 graduates were employed by the institution, but stated there was
12 a total of 3 graduates employed in the field.

13 m. The 2015/2016 Barber SPFS does not accurately report License Examination
14 Passage Rates, in violation of Code sections 94910(c), 94929.5(a)(2) and Regulation 74112(j)
15 [formerly 74112(e)(2). The 2015/2016 License Exam Passage Rates table was blank and did not
16 include any information about graduates who took the license examination. However, a report
17 from BBC showed that Respondent had 92 tests taken in 2015 and 109 tests taken in 2016.

18 n. The 2015/2016 Barber Crossover SPFS does not accurately report License
19 Examination Passage Rates, in violation of Code sections 94910(c), 94929.5(a)(2) and Regulation
20 74112(j), as follows:

21 A) The 2015/2016 License Exam Passage Rates table did not include any
22 dates for reporting.

23 B) The 2015/2016 License Exam Passage Rates table stated that there were
24 20 graduates in the reporting calendar year, which is inconsistent with the Completion Rates
25 table, which reported 17 total graduates for the reporting calendar year.

26 C) The 2015/2016 License Exam Passage Rates table stated that there were
27 six graduates in the next reporting calendar year, which is inconsistent with the Completion Rates
28 table, which reported three total graduates for that reporting calendar year.

1 D) The 2015/2016 License Exam Passage Rates table stated that in the first
2 report year, presumably 2015, 17 graduates took and passed the exam for a 100% passage rate. A
3 report from BBC showed that Respondent had 92 written tests taken in 2015 and that 49 of them
4 failed, which is a total passage rate of 53%.

5 E) The 2015/2016 License Exam Passage Rates table stated that in the
6 second reporting year, presumably 2016, three graduates took and passed the exam for a 100%
7 passage rate. A report from BBC showed that Respondent had 109 written tests taken in 2016 and
8 that 68 of them failed, for a passage rate of 38%.

9 o. The 2015/2016 Barber SPFS and the Barber Crossover SPFS did not accurately
10 report Salary and Wage Information, in violation of Code sections 94910(d), 94929.5(a)(3) and
11 Regulations 74112 (e)(2) and 74112(k) [formerly 74112(g)], as follows:

12 A) Respondent failed to report any salary and wage information for the two
13 reporting calendar years in the Barber and Barber Crossover SPFS, nor did Respondent state that
14 it could not collect the information from graduates employed in the field. Respondent represented
15 it had between 3 and 37 graduates according to the Job Placement sections.

16 p. Respondent reported it offered three programs in its 2015 Annual Report, but
17 only provided completion rates, job placement rates, license exam passage rates and salary and
18 wage information for one program, in violation of Code sections 94929(a), 94929.5(a)(1)-(3) and
19 74112(e)(1). Respondent failed to provide information about the Barber Crossover (400 hours)
20 program and Barber Instructor (600 hour) program for the 2015 reporting year.

21 q. Respondent failed to identify the United States Department of Labor's Standard
22 Occupational Classification codes for the programs for which Respondent identified it prepares
23 its graduates in its catalog and in its employment positions list, in violation of Regulation
24 74112(d)(3)(A)(i).

25 r. Respondent inaccurately reported the cost of the Barber and Barber Crossover
26 programs, in violation of Regulation 74112(f) in that the 2015/2016 SPFS lists that the cost of
27 each program in 2016 was \$5950. However, \$5,950 was the cost for the 1500-hour Barber
28

1 program. The cost for the Barber Crossover program as reported in the school catalog and 2016
2 Annual Report was \$1,500.

3 s. The 2015/2016 Barber and Barber Crossover SPFSs did not include the
4 required disclosure regarding the "STUDENT'S RIGHT TO CANCEL" on a separate document,
5 as required by Regulation 74112(n).

6 **NINTH CAUSE FOR DISCIPLINE**

7 **(Failure to Meet Annual Reporting Requirements)**

8 70. Respondent's approval to operate is subject to disciplinary action under Sections
9 94929 and 94934, and Regulations 74110(a), (b) and (d) and 74112(d) – (f), in that Respondent's
10 Annual Reports for 2013, 2014, 2015 and 2016, did not contain all of the information required as
11 follows:

12 a. Respondent's 2014 Annual Report did not include information for all of the
13 educational programs offered in the prior calendar year, which is a violation of Section 94934(a)
14 and Regulation 74110(a).

15 b. Respondent's 2014 Annual Report contained data that did not match the SPFS
16 or SPFS backup documentation.

17 c. Respondent did not accurately report the completion rate in its 2014 Annual
18 Report, which is a violation of Section 94929(a) and Regulation 74112(d).

19 d. Respondent did not accurately report placement and license examination
20 passage rates in its 2013 and 2014 Annual Reports, which is a violation of section 94929.5(a) and
21 Regulation 74112(f). The numbers reported in the 2014 Annual Report did not match the
22 numbers reported in the 2014 SPFS.

23 e. Respondent did not accurately report the license examination passage rates in
24 its 2013 Annual Report, which is a violation of Section 94929.5(a)(2) and Regulation 74112(e)
25 and (f).

26 f. Respondent did not document and maintain all of the information necessary to
27 substantiate the performance data reported in its 2013 and 2014 Annual Report, which is a
28 violation of Section 94929.7.

1 g. The financial statements included with Respondent's 2013 and 2014 Annual
2 Reports did not contain balance sheets, which are required under Regulation 74115. This is a
3 violation of Regulation 74110(b).

4 h. Respondent made a misleading statement and inaccurately reported the total
5 number of students enrolled in a diploma or certificate program at the institution, in violation of
6 Section 94934(a)(1) as follows:

7 A) Respondent's 2015 Annual Report stated that 87 students were enrolled
8 in the school, but stated there were only 54 students in a diploma or certificate programs.
9 Respondent only offered diploma or certificate programs.

10 B) Respondent's 2016 Annual Report stated that 87 students were enrolled
11 in the school, but stated there were zero students enrolled in a diploma or certificate
12 program at the school. Respondent only offered diploma or certificate programs.

13 i. Respondent made a misleading statement and inaccurately reported the number
14 of degree levels and diplomas it offered, which is a violation of Code section 94934(a)(3).
15 Respondent's 2016 Annual Report stated the school did not offer any diploma or certificate
16 programs, when in 2016, Respondent was approved to offer 3 diploma programs: Barber (1500
17 hours), Barber Crossover (400 hours), and Barber Instructor (600 hours).

18 j. Respondent failed to provide the correct 2015 SPFSs, enrollment agreement, or
19 financial statements as part of their 2015 Annual Report, a violation of Section 94934(a)(4) and
20 Regulation 74110(b) and (d).

21 k. Respondent failed to provide the required information in its 2015 Annual
22 Report, in violation of Regulation 74110. Its 2015 Annual Report stated that it offered three
23 programs, but only provided completion rates, job placement rates, license exam passage rates,
24 and salary and wage information for one program. In addition, Respondent failed to provide
25 information for the reporting year for their Barber Crossover (400 hours) program and their
26 Barber Instructor (600 hour) course.

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TENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Student Tuition Recovery Fund Requirements)

71. Respondent's approval to operate is subject to disciplinary action under Regulations 76120(a), 76130(b) and (c), and 76140(a), in that Respondent did not comply with the requirements for the Student Tuition Recovery Fund (STRF). The circumstances of this conduct are as follows:

a. Respondent's 2015/2016 School Catalog listed the incorrect amount for STRF charges.

b. Respondent charged students D.D., L.B., W.S., A.T., J.G. and T.C. STRF fees, but they were enrolled after January 1, 2015, and were therefore required to pay a \$0.00 STRF Fee per \$1,000 of tuition.

c. Respondent did not submit the STRF Fees assessed to students D.D., L.B., and W.S. to the Bureau.

d. Respondent did not maintain all records required for STRF reporting, including student identification number, courses and course cost, amount of STRF collected, quarter in which STRF assessment was submitted to the Bureau, third party payer identifying information, total institutional charges charged and total institutional charges paid.

e. Respondent's 2017/2018 School Catalog lists a STRF Assessment Fee of \$.50 per \$1000 of tuition, which is higher than the current fee rate of \$0.00 per \$1000 of tuition.

f. Respondent's 2018/2019 School Catalog lists a STRF Assessment Fee of \$.50 per \$1000 of tuition, which is higher than the current fee rate of \$0.00 per \$1000 of tuition.

g. Respondent provided its 2016 3rd Quarter STRF Assessment Reporting form with other documents in June, 2018, but failed to timely submit the form to the Bureau.

h. Respondent's 2018 1st Quarter STRF Assessment Reporting Form contained the following:

A) Respondent reported in Line D that there were 14 students who signed enrollment agreements in prior reporting periods and from whom the students' first STRF

1 payments were collected, however, previous reporting forms did not account for any such
2 students, which is a violation of Regulation 76130(b)(3).

3 B) Respondent failed to report the tuition charges, rounded to the nearest
4 \$1000 for each student, as \$99,700, which is a violation of Regulation 76130(c)(5).

5 i. Respondent's 2017 4th Quarter STRF Assessment Reporting Form contained
6 the following:

7 A) Respondent reported in Line D that there were 13 students who signed
8 enrollment agreements in prior reporting periods and from whom the students' first STRF
9 payments were collected, however, previous reporting forms did not account for any such
10 students, which is a violation of Regulation 76130(b)(3).

11 B) Respondent failed to report the tuition charges, rounded to the nearest
12 \$1000 for each student, as \$56,600, which is a violation of Regulation 76130(c)(5).

13 j. Respondent's 2017 2nd Quarter STRF Assessment Reporting Form contained
14 the following:

15 A) Respondent reported that zero of the 21 students were eligible for STRF,
16 however, all enrolled students residing in California or enrolled in a residency program are
17 eligible for STRF, a violation of Regulation 76120(a).

18 B) Respondent reported in Line D that there were 13 students who signed
19 enrollment agreements in prior reporting periods and from whom the students' first STRF
20 payments were collected, however, previous reporting forms did not account for any such
21 students, which is a violation of Regulation 76130(b)(3).

22 C) Respondent failed to report the tuition charges, rounded to the nearest
23 \$1000 for each student, as \$84,900, which is a violation of Regulation 76130(c)(5).

24 k. Respondent's 2017 1st Quarter STRF Assessment Reporting Form contained the
25 following:

26 A) Respondent reported that zero of the 13 students were eligible for STRF,
27 however, all enrolled students residing in California or enrolled in a residency program are
28 eligible for STRF, a violation of Regulation 76120(a).

1 B) Respondent reported in Line D that there were 13 students who signed
2 enrollment agreements in prior reporting periods and from whom the students' first STRF
3 payments were collected, however, previous reporting forms did not account for any such
4 students, which is a violation of Regulation 76130(b)(3).

5 C) Respondent failed to report the tuition charges, rounded to the nearest
6 \$1000 for each student, as \$110,200, which is a violation of Regulation 76130(c)(5).

7 l. Respondent's 2016 4th Quarter STRF Assessment Reporting Form contained
8 the following:

9 A) Respondent reported that zero of the 13 students were eligible for STRF,
10 however, all enrolled students residing in California or enrolled in a residency program are
11 eligible for STRF, a violation of Regulation 76120(a).

12 B) Respondent reported in Line D that there were 27 students who signed
13 enrollment agreements in prior reporting periods and from whom the students' first STRF
14 payments were collected, however, previous reporting forms did not account for any such
15 students, which is a violation of Regulation 76130(b)(3).

16 C) Respondent failed to report the tuition charges, rounded to the nearest
17 \$1000 for each student, as \$165,600, which is a violation of Regulation 76130(c)(5).

18 m. Respondent's 2016 2nd Quarter STRF Assessment Reporting Form reported the
19 tuition charges as \$102,700, instead of rounded to the nearest \$1000 for each student, as required
20 by Regulation 76130(c)(5).

21 n. Respondent's 2016 1st Quarter STRF Assessment Reporting Form reported the
22 tuition charges as \$199,450, instead of rounded to the nearest \$1000 for each student, as required
23 by Regulation 76130(c)(5).

24 o. Respondent's 2015 3rd Quarter STRF Assessment Reporting Form reported in
25 Line D that there were 12 students who signed enrollment agreements in prior reporting periods
26 and from whom the students' first STRF payments were collected, however, previous reporting
27 forms did not account for any such students, which is a violation of Regulation 76130(b)(3).

p. Respondent's 2015 2nd Quarter STRF Assessment Reporting Form reported the tuition charges as \$59,400 instead of rounded to the nearest \$1000 for each student, as required by Regulation 76130(c)(5).

q. Respondent's 2015 1st Quarter STRF Assessment Reporting Form reported the tuition charges as \$116,850 instead of rounded to the nearest \$1000 for each student, as required by Regulation 76130(c)(5).

ELEVENTH CAUSE FOR DISCIPLINE

(Prohibited Business Practices)

72. Respondent's approval to operate is subject to disciplinary action under Section 94897 for engaging in prohibited business practices as follows:

a. Respondent made inaccurate and misleading statements in advertisements and/or in documents required by the Bureau in violation section 94897(c), (j) and/or (j)(3):

A) Respondent advertised an inaccurate length of time for the Barber Crossover program. The Barber Crossover program is described as a 200 clock hour program but it includes 215 hours of theoretical instruction and 125 hours of practical operations. It is not possible for a student to complete all listed curriculum components in the time allotted for the program. This is a violation of section 94897(c) and (j)(3).

B) Respondent made false or misleading statements regarding the total number of clock hours of instruction provided for graduates because Respondent included lunch hours as educational time. This is a violation of section 94897(j).

C) Respondent made false or misleading statements in the information reported on the 2015/2016 SPFS regarding the Barber program, such as the completion rates, job placement rates, license exam passage rates and salary and wage information. This is a violation of section 94897(j)(3).

D) Respondent made false or misleading statements in the information reported in the 2015 Annual Report regarding the number of students enrolled in a program on time graduates, job placement rates, and license exam passage rates. This is a violation of section 94897(j)(3).

1 E) Respondent made false or misleading statements in the information
2 reported in the 2016 Annual Report regarding the number of students enrolled in a diploma or
3 certificate program, the types of programs Respondent offered, the number of students available
4 for graduation from the Barber and Barber Crossover programs, the total number of graduates
5 employed in the field for the Barber and Barber Crossover programs, and the license exam
6 passage rates for the Barber and Barber Crossover programs. This is a violation of section
7 94897(j)(3).

8 F) Respondent made false or misleading statements regarding the language
9 in which instruction will be provided in that the 2018/2019 School Catalog indicated that
10 instruction is only provided in English when Respondent has approval to offer their Barber
11 program in both English and Spanish. This is a violation of section 94897(j)(3).

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13 b. Respondent failed to refrain from directing any individual to report unlawful
14 conduct to the bureau or another government agency in violation of section 94897(m) in that the
15 school's grievance policy as set forth in the 2018/2019 School Catalog requires the student to
16 exhaust the internal grievance procedure before they can report any issues to an outside entity.

17 **TWELFTH CAUSE FOR DISCIPLINE**

18 **(Failure to Meet Minimum Operating Standards – Educational Program)**

19 73. Respondent's approval to operate is subject to disciplinary action under Regulation
20 71710(a) and (b) for failure to meet minimum operating standards with respect to its educational
21 program as follows:

22 a. Respondent was not providing instruction in subject areas that are necessary to
23 meet the educational objectives of the Barbering program in that Respondent was not providing
24 instruction of the BBC's Laws and Regulations or from BBC's Health and Safety course and
25 handbook, which are required curriculum components for the Barbering program.

26 b. Respondent did not have a curriculum for the Barber/Cosmetology
27 Apprenticeship program, which is currently being offering to the public.

1 c. Respondent does not present subject areas and/or courses in a logically
2 organized manner or sequence to students in that students in different levels of study are in the
3 same class with the same instructor at one time such that certain subject areas are repeated for the
4 newer students and some subjects are more advanced for these students.

5 **THIRTEENTH CAUSE FOR DISCIPLINE**

6 **(Failure to Meet Minimum Operating Standards – Instruction)**

7 74. Respondent's approval to operate is subject to disciplinary action under Regulation
8 71715(a) and (b) for failure to meet minimum operating standards in that Respondent failed to
9 make instruction the central focus of the resources and services of the institution as follows:

- 10 a. There is insufficient faculty to support the students and programs being offered.
- 11 b. There is a lack of organization in classroom time and presentation of
12 curriculum.
- 13 c. Respondent failed to document that the instruction offered leads to the
14 achievement of the learning objectives of the course in that Respondent failed to record the
15 progress of students in the educational program.
- 16 d. Respondent failed to have an instructor present while students were engaged in
17 the educational program. Students were in conversation with each other, two were servicing
18 consumers, and others were reading textbooks while the only instructor on site was on her lunch
19 break.

20 **FOURTEENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Meet Minimum Operating Standards – Faculty)**

22 75. Respondent's approval to operate is subject to disciplinary action under Regulation
23 71720(b)(1) for failure to meet minimum operating standards in that Respondent failed to provide
24 documentation that it employs instructors who possess the academic, experiential and
25 professional qualifications to teach. The circumstances are as follows:

- 26 a. During L.F.'s site investigation on September 26, 2018, Respondent was unable
27 to provide the faculty files for L.B. and P.R.M., two current faculty members.

b. Respondent failed to have a sufficient number of faculty to support its educational programs. During L.F.'s site investigation on September 26, 2018, students in the Barber program and Barber/Crossover program were in the same classroom for instruction although the curriculum for these courses are not identical. Instructors are not capable of supporting the needs of the currently enrolled students and are also required to perform administrative tasks while also being the only instructor present for students.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Meet Minimum Operating Standards – Administration)

76. Respondent's approval to operate is subject to disciplinary action under Regulation 71730(d) and (f) for failure to meet minimum operating standards in that Respondent failed to have sufficient administrative staffing who have the expertise to ensure the achievement of the institution's mission and objectives and the operation of the educational program. The circumstances are as follows:

a. Respondent's instructors are also responsible for performing administrative tasks while they are also the only instructor available for students.

b. Respondent was not able to demonstrate that it employs administrative personnel with sufficient expertise to ensure the achievement of the institution's mission and objectives and the operation of the educational program.

SIXTEENTH CAUSE FOR DISCIPLINE

(Merging Classes, Converting Method of Delivery and Changing Locations)

77. Respondent's approval to operate is subject to disciplinary action under Code section 94898(a), (b)(2) and (d)(1)-(d)(4) in that:

a. Respondent merged the Barber and Barber Crossover students in the same classroom, where the students are of different levels of study.

b. Respondent changed its location from Moreno Valley to Ontario, a distance in excess of 32 miles, without the consent of enrolled students. The enrolled students were required to attend at the new location in Ontario. Evening classes were added to accommodate the students who could not travel to the Ontario location during the day. However,

1 Respondent subsequently cancelled the evening classes and did not provide a means for these
2 students to complete their educational program.

3 c. Respondent changed its location from Moreno Valley to Ontario, a distance in
4 excess of 32 miles, without disclosing this fact to students prior to enrollment or offering the
5 opportunity to receive a full refund.

6 **SEVENTEENTH CAUSE FOR DISCIPLINE**

7 **(Internet Website Requirements)**

8 78. Respondent's approval to operate is subject to disciplinary action under Code section
9 94913(a)(1), (3) and (5) for failure to maintain an Internet website that provides the school's
10 current School Catalog, student brochures offered by the institution or the most recent Annual
11 Report submitted to the Bureau.

12 **EIGHTEENTH CAUSE FOR DISCIPLINE**

13 **(Student Tuition Recovery Fund Disclosures)**

14 79. Respondent's approval to operate is subject to disciplinary action under Regulation
15 76215 for failure to state the required disclosures regarding the student tuition recovery fund in
16 the enrollment agreements of N.P., M.T., A.T. L.C., J.G. and T.C. in the 2018/2019 School
17 Catalog.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Director of Consumer Affairs issue a decision:

21 1. Revoking or suspending the approval to operate issued by the Bureau for Private
22 Postsecondary Education to Padma Corporation dba Rosston School of Hair Design, Institution
23 Code 3600371;

24 2. Ordering Padma Corporation dba Rosston School of Hair Design to pay the Bureau
25 for Private Postsecondary Education the reasonable costs of the investigation and enforcement of
26 this case, pursuant to Business and Professions Code section 125.3 and Education Code 94937(c);
27 and,

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3. Taking such other and further action as deemed necessary and proper.

DATED:

11/5/18



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

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