

XAVIER BECERRA
Attorney General of California
DAVID E. BRICE
Supervising Deputy Attorney General
JEFF STONE
Deputy Attorney General
State Bar No. 155190
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 210-7726
Facsimile: (916) 327-8643
E-mail: Jeff.Stone@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Statement of Issues
Against:

Case No. 1005411

STOCKTON BARBER COLLEGE, DANIEL THAI, OWNER

STATEMENT OF ISSUES

Applicant for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions

School Code 3900121

Respondent.

Complainant alleges:

PARTIES

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

2. On or about July 10, 2018, the Bureau for Private Postsecondary Education (the Bureau) received an application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions from Daniel Thai, Owner, Stockton Barber College

1 (Respondent). On or about July 8, 2018, Daniel Thai certified under penalty of perjury to the
2 truthfulness of all statements, answers, and representations in the application. After follow-up
3 correspondence between Respondent and the Bureau regarding the application, and a Quality
4 Onsite Review of Respondent's institution conducted by Bureau Senior Education Specialists, the
5 Bureau denied the application on November 12, 2019.

6 **JURISDICTION**

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

10 4. Section 94891, subdivision (b), of the Code provides, in pertinent part: "To be
11 granted a renewal of an approval to operate, the institution shall demonstrate its continued
12 capacity to meet the minimum operating standards."

13 5. California Code of Regulations (CCR), title 5, section 71700, states: "The Bureau
14 may request that an institution document compliance with the standards set forth in the Act and
15 this Division to obtain and maintain an approval to operate."

16 **STATUTORY PROVISIONS**

17 6. Section 94837 of the Code states:

18 'Educational program' means a planned sequence composed of a single course or module,
19 or set of related courses or modules, that provides education, training, skills, or experience, or a
combination of these.

20 7. Section 94875 of the Code provides, in pertinent part:

21 In exercising its powers, and performing its duties, the protection of the public shall be the
22 bureau's highest priority. If protection of the public is inconsistent with other interests sought to
be promoted, the protection of the public shall be paramount.

23 8. Section 94885 of the Code states:

24 The bureau shall, by January 1, 2011, adopt by regulation minimum operating standards
25 for an institution that shall reasonably ensure that all of the following occur:

26 (a) The content of each educational program can achieve its stated objective.

27 (b) The institution maintains specific written standards for student admissions for each

1 educational program and those standards are related to the particular educational program.

2 (c) The facilities, instructional equipment, and materials are sufficient to enable students to
achieve the educational program's goals.

3 (d) The institution maintains a withdrawal policy and provides refunds.

4 (e) The directors, administrators, and faculty are properly qualified.

5 (f) The institution is financially sound and capable of fulfilling its commitments to students.

6 (g) That, upon satisfactory completion of an educational program, the institution gives
students a document signifying the degree or diploma awarded.

7 (h) Adequate records and standard transcripts are maintained and are available to students.

8 (i) The institution is maintained and operated in compliance with this chapter and all other
applicable ordinances and laws.

9. Section 94886 of the Code provides, in pertinent part, that "a person shall not open,
conduct, or do business as a private postsecondary educational institution in this state without
obtaining an approval to operate under this chapter."

10. Section 94887 of the Code states:

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

12 11. Section 94904 of the Code states:

13 (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.

14 (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.

15 (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.

12. Section 94910 of the Code provides, in pertinent part:

4 Prior to enrollment, an institution shall provide a prospective student with a School
5 Performance Fact Sheet containing, at a minimum, the following information, as it relates to the
6 educational program:
7
8 ...

9 (c) License examination passage rates for programs leading to employment for which
10 passage of a state licensing examination is required, as calculated pursuant to Article 16
11 (commencing with Section 94928).

REGULATORY PROVISIONS

13. CCR, title 5, section 70000, subdivision (q) provides, in pertinent part:

14 (q) 'Mission' means an institution's stated educational reasons to exist. A mission
15 statement contains all of the following characteristics:

16 (1) The mission includes the institution's broad expectations concerning the education that
17 students will receive, including the acquisition of the body of knowledge presented in the
18 educational program, the development of intellectual, analytical, and critical abilities, and the
19 fostering of values such as a commitment to pursue lifelong learning; and

20 (2) The mission relates to the educational expectations of the institution's students, faculty
21 and community that the institution serves.

22 14. CCR, title 5, section 71475, subdivision (t), provides, in pertinent part:

23 In addition, the institution shall list in the application, the following for each educational
24 program offered unless there have been no substantive changes since the last submission. If there
25 have been no substantive changes made the institution may so state and is not required to provide
26 documentation.

27 (1) The admissions requirements, including minimum levels of prior education, preparation,
28 or training;

....
29 (2) If applicable, information regarding the ability-to-benefit examination as required by
30 section 94904 of the Code.

31 (4) The title of the educational programs and other components of instruction offered,
32 including a description of the level of the courses (e.g., below college level, undergraduate level,
33 graduate level);
34
35 ...

1 15. CCR, title 5, section 71710 provides, in pertinent part:

2 In order to meet its mission and objectives, the educational program defined in section
3 94837 of the Code shall be comprised of a curriculum that includes:

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

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

8 (c) course or module materials that are designed or organized by duly qualified faculty. For
9 each course or module, each student shall be provided with a syllabus or course outline that
contains:

10 (1) a short, descriptive title of the educational program;

11 (2) a statement of educational objectives;

12 (3) length of the educational program;

13 (4) sequence and frequency of lessons or class sessions;

14 (5) complete citations of textbooks and other required written materials;

15 (6) sequential and detailed outline of subject matter to be addressed or a list of skills to be
16 learned and how those skills are to be measured;

17 (7) instructional mode or methods.

18 ...

19 (e) specific learning outcomes tied to the sequence of the presentation of the material to
20 measure the students' learning of the material; and

21 (f) evaluation by duly qualified faculty of those learning outcomes.

23 16. CCR, title 5, section 71715 provides, in pertinent part:

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

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

27 ///

28 ///

17. CCR, title 5, section 71770 provides, in pertinent part:

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

(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code.

FACTUAL BACKGROUND

18. Respondent's application was received by the Bureau on July 10, 2018, along with the application fee. On July 17, 2018, the Bureau mailed a letter to Respondent indicating the application was incomplete. The Bureau received a written response from Respondent on January 10, 2019. On February 15, 2019, the Bureau mailed a letter to Respondent outlining deficiencies in the following areas of the application: Exemplars of Student Agreements, Financial Resources and Statements, Libraries and Other Learning Resources, and Catalog. Following further communication from Respondent on March 15, 2019, the Bureau mailed another letter dated May 8, 2019, to Respondent outlining deficiencies in the following areas of the application: Exemplars of Student Agreements, Libraries and Learning Resources, and Catalog. On June 7, 2019, the Bureau received another letter from Respondent.

19. On August 15, 2019, the Bureau wrote to Respondent outlining continued deficiencies in the following areas of the application: Instruction and Degrees Offered, Description of Educational Program, and Faculty and Additional Information (regarding Ability-To-Benefit (ATB) examinations). The letter also stated that Respondent's institution would be visited by Senior Education Specialists the following week. On August 28, 2019, Senior Education Specialists visited Respondent's institution in order to conduct a Quality Onsite Review, assessing the institution's renewal application components in person. On September 12, 2019, the Bureau received a follow-up email from Respondent addressing the following sections of the application: Instruction and Degrees Offered, Description of Educational Program, and

1 Faculty and Additional Information (regarding ATB examinations). On November 12, 2019, the
2 Bureau denied Respondent's application.

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 (Educational Program Instruction Deficiencies)

5 20. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
6 herein.

7 21. Respondent's application is subject to denial under CCR, title 5, section 71710,
8 subdivision (a) and section 71715, subdivision (a), in that Respondent's students attend to
9 "practice" their barbering skills, without documented adequate instruction to develop those skills.
10 Without standard-length, scheduled lectures and instruction covering the span of necessary
11 subject areas, the underdeveloped curriculum results in instruction no longer being the central
12 focus of the resources and services of Respondent's institution.

13 **SECOND CAUSE FOR DENIAL OF APPLICATION**

14 (Failure to Identify Admissions Requirements)

15 22. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
16 herein.

17 23. Respondent's application is subject to denial under CCR, title 5, section 71475,
18 subdivision (t)(1) and (2), and section 71770, subdivision (a)(1), in that:

19 (1) Respondent states that the institution will not be admitting Ability-to-Benefit
20 (ATB) students, but also states that all prospective students who have not completed High
21 School must take an ATB examination prior to enrollment. Therefore, Respondent has not
22 clearly identified its admissions requirements regarding ATB students.

23 (2) Respondent states that students can be "18 years old or finished high school"
24 (not requiring a high school diploma or equivalent for individuals over 18 years old) and
25 states that Respondent "recommends the completion of high school or its equivalent prior to
26 enrolling" rather than requiring it. These statements do not comply with the regulatory
27 requirement that enrolling students possess a high school diploma or equivalent. 28

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THIRD CAUSE FOR DENIAL OF APPLICATION

(Failure to Provide Components of Instruction Offered)

24. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
herein.

25. Respondent's application is subject to denial under CCR, title 5, section 71475,
subdivision (t)(4), and section 71715, subdivision (b), in that Respondent failed to complete the
"Instruction and Degrees Offered" section of the application and/or failed to document whether
the components of instruction lead to the achievement of learning objectives.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Examination Pass Rates)

26. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
herein.

27. Respondent's application is subject to denial under Code section 94910, subdivision
(c), and CCR, title 5, section 71715, subdivision (b), in that Respondent provided the Bureau with
information showing (1) very low student examination pass rates for January 2017 - August 2019,
and (2) many graduates are not attaining licensure after repeated examination attempts.
Additionally, student examination pass rates reported on the 2017 and 2018 School Performance
Fact Sheet appear to be higher than those documented by the Board of Barbering and
Cosmetology. Therefore, Respondent's instruction is not sufficiently leading to the achievement
of student learning objectives.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Description of Educational Program)

28. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
herein.

29. Respondent's application is subject to denial under CCR, title 5, section 71710,
subdivisions (a), (b), and (c), in that Respondent failed to sufficiently complete the "Description
of Educational Program" section of the application, failing to demonstrate that the learning, skills

1 and other competencies to be acquired by the students who complete Respondent's barbering
2 program will enable graduates to achieve the objectives of Respondent's educational program.

3 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

4 (Educational Program Curriculum Deficiencies)

5 30. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
6 herein.

7 31. Respondent's application is subject to denial under CCR, title 5, section 71710,
8 subdivision (c), in that Respondent has failed to provide curriculum for the barbering program,
9 that has been designed or organized by duly qualified faculty.

10 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

11 (Educational Program Instruction Deficiencies)

12 32. Complainant incorporates paragraphs 18 and 19 above, as though fully set forth
13 herein.

14 33. Respondent's application is subject to denial under CCR, title 5, section 71710,
15 subdivisions (e) and (f), and section 71715(b), in that Respondent's specific learning outcomes
16 for its barbering program are not tied to the sequence of the presentation of material. There is no
17 documentation regarding schedules of lectures or planned learning activities, as opposed to
18 student's practicing or "progressing" at their own pace, thus producing the effect of student's
19 attempting to develop skills without structure or strategic guidance. Learning outcomes are
20 therefore not sufficiently measured, evaluated, and/or achieved.

21 **PRAYER**

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

25 1. Denying the application of Stockton Barber College, Daniel Thai, Owner for a
26 Renewal of Approval to Operate an Institution Non-Accredited;

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1 2. Taking such other and further action as deemed necessary and proper.

2

3 DATED: “4/3/2020”

“Original signature on file”

4 DR. MICHAEL MARION, JR.

Chief

5 Bureau for Private Postsecondary

Education

6 Department of Consumer Affairs

State of California

7 *Complainant*

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