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10 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
STATE OF CALIFORNIA
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13
14 In the Matter of the Statement of Issues
Against:

Case No. 1002344

15 **SELAH BEAUTY ACADEMY; ABEBAH**
BAUGHMAN, OWNER

STATEMENT OF ISSUES

16
17 **APPLICATION FOR APPROVAL TO OPERATE**
AN INSTITUTION NON-ACCREDITED

18 Respondent.
19

20 Complainant alleges:

21 **PARTIES**

- 22 1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official
23 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
24 Consumer Affairs.
- 25 2. On or about September 18, 2015, the Bureau for Private Postsecondary Education
26 received application number 28635 for an Approval to Operate an Institution Non-Accredited
27 from Abebah Baughman, owner, Selah Beauty Academy (Respondent). On or about September
28 18, 2015, Abebah Baughman certified under penalty of perjury to the truthfulness of all

1 statements, answers, and representations in the application. The Bureau denied the application on
2 November 11, 2016.

3 **JURISDICTION**

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

8 4. Code section 94875 authorizes the Bureau to regulate private postsecondary
9 educational institutions under the California Private Postsecondary Education Act of 2009,
10 Education Code sections 94800 through 94950.

11 5. Code Section 94887 states: "An approval to operate shall be granted only after an
12 applicant has presented sufficient evidence to the bureau, and the bureau has independently
13 verified the information provided by the applicant through site visits or other methods deemed
14 appropriate by the bureau, that the applicant has the capacity to satisfy the minimum operating
15 standards. The bureau shall deny an application for an approval to operate if the application does
16 not satisfy those standards.

17 6. Section 71700 of title 5 of the California Code of Regulations (5 CCR 71700) states:
18 "The Bureau may request that an institution document compliance with the standards set forth in
19 the Act and this Division to obtain and maintain an approval to operate."

20
21 **STATUTORY AND REGULATORY PROVISIONS**

22 7. Section 94897 of the Code states in pertinent part:

23 "An institution shall not do any of the following:

24 ...

25 (p) Offer an associate, baccalaureate, master's, or doctoral degree without disclosing to
26 prospective students prior to enrollment whether the institution or the degree program is
27 unaccredited and any known limitation of the degree, including, but not limited to, all of the
28 following:

1 (1) Whether a graduate of the degree program will be eligible to sit for the applicable
2 licensure exam in California and other states.

3 (2) A statement that reads: "A degree program that is unaccredited or a degree from an
4 unaccredited institution is not recognized for some employment positions, including, but not
5 limited to, positions with the State of California."

6 (3) That a student enrolled in an unaccredited institution is not eligible for federal financial
7 aid programs."

8 8. Section 94909 of the Code states in pertinent part:

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

12 ...

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

18 (6) If the educational program is designed to lead to positions in a profession, occupation,
19 trade, or career field requiring licensure in this state, a notice to that effect and a list of the
20 requirements for eligibility for licensure.

21 ...

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

23 (A) Admissions policies, including the institution's policies regarding the acceptance of
24 credits earned at other institutions or through challenge examinations and achievement tests,
25 admissions requirements for ability-to-benefit students, and a list describing any transfer or
26 articulation agreements between the institution and any other college or university that provides
27 for the transfer of credits earned in the program of instruction. If the institution has not entered
28

1 into an articulation or transfer agreement with any other college or university, the institution shall
2 disclose that fact.

3 (B) Cancellation, withdrawal, and refund policies, including an explanation that the student
4 has the right to cancel the enrollment agreement and obtain a refund of charges paid through
5 attendance at the first class session, or the seventh day after enrollment, whichever is later. The
6 text shall also include a description of the procedures that a student is required to follow to cancel
7 the enrollment agreement or withdraw from the institution and obtain a refund consistent with the
8 requirements of Article 13 (commencing with Section 94919).

9 ...

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

12 ...

13 (16) A statement specifying whether the institution, or any of its degree programs, are
14 accredited by an accrediting agency recognized by the United States Department of Education. If
15 the institution is unaccredited and offers an associate, baccalaureate, master's, or doctoral degree,
16 or is accredited and offers an unaccredited program for an associate, baccalaureate, master's, or
17 doctoral degree, the statement shall disclose the known limitations of the degree program,
18 including, but not limited to, all of the following:

19 (A) Whether a graduate of the degree program will be eligible to sit for the applicable
20 licensure exam in California and other states or become certified or registered as required for the
21 applicable profession, occupation, trade, or career field in California.

22 (B) A degree program that is unaccredited or a degree from an unaccredited institution is
23 not recognized for some employment positions, including, but not limited to, positions with the
24 State of California.

25 (C) That a student enrolled in an unaccredited institution is not eligible for federal financial
26 aid programs.”

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28 //

1 9. Section 94910 of the Code states:

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

6 (a) Completion rates, as calculated pursuant to Article 16 (commencing with Section
7 94928).

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

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

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

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

23 (f) All of the following:

24 (1) A description of the manner in which the figures described in subdivisions (a) to (d),
25 inclusive, are calculated or a statement informing the reader of where he or she may obtain a
26 description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are
27 calculated.

28 //

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

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

7 (g) The following statements:

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

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

16 (h) The School Performance Fact Sheet shall contain all of following: If the institution
17 participates in federal financial aid programs, the most recent three-year cohort default rate
18 reported by the United States Department of Education for the institution and the percentage of
19 enrolled students receiving federal student loans.

20 (i) Data and information disclosed pursuant to subdivisions (a) to (d), inclusive, is not
21 required to include students who satisfy the qualifications specified in subdivision (d) of Section
22 94909, but an institution shall disclose whether the data, information, or both provided in its fact
23 sheet excludes students pursuant to this subdivision. An institution shall not actively use data
24 specific to the fact sheet in its recruitment materials or other recruitment efforts of students who
25 are not California residents and do not reside in California at the time of their enrollment.

26 10. Section 94911 of the Code states in pertinent part:

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

28 "...

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

4 ...
5 "(j) The following statements:

6 "(1) 'Any questions a student may have regarding this enrollment agreement that have not
7 been satisfactorily answered by the institution may be directed to the Bureau for Private
8 Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address),
9 (telephone and fax numbers).'

10 "(2) 'A student or any member of the public may file a complaint about this institution with
11 the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by
12 completing a complaint form, which can be obtained on the bureau's Internet Web site (Internet
13 Web site address).'"

14 11. 5 CCR 71240 states, in pertinent part:

15 "...

16 (b) The institution shall submit current, reviewed financial statements at the time it applies
17 for approval to operate. Each set of financial statements shall comply with Section 74115 of this
18 chapter."

19 12. 5 CCR 71260 states, in pertinent part:

20 "...

21 (b) For facilities that are leased or rented, the Form Application 94886 shall contain the
22 name and address of the lessor or landlord, together with a copy of any use, lease, or rental
23 agreements for the facilities.

24 ..."

25 13. 5 CCR 71320 states, in pertinent part:

26 "The Form Application 94886 shall contain a description of the procedures used by the
27 institution to assure that it is maintained and operated in compliance with the Act and this
28 Division."

1 14. 5 CCR 71745 states, in pertinent part:

2 (a) The institution shall document that it has at all times sufficient assets and financial
3 resources to do all of the following:

4 (1) Provide all of the educational programs that the institution represented it would provide.

5 (2) Ensure that all students admitted to its educational programs have a reasonable
6 opportunity to complete the programs and obtain their degrees or diplomas.

7 (3) Maintain the minimum standards required by the Act and this chapter.

8 (4) Pay timely refunds as required by Article 13 of the Act.

9 (5) Pay all operating expenses due within 30 days.

10 (6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the
11 end of the most recent fiscal year when using generally accepted accounting principles, or for an
12 institution participating in Title IV of the federal Higher Education Act of 1965, meet the
13 composite score requirements of the U.S. Department of Education. For the purposes of this
14 section, current assets does not include: intangible assets, including goodwill, going concern
15 value, organization expense, startup costs, long-term prepayment of deferred charges, and non-
16 returnable deposits, or state or federal grant or loan funds that are not the property of the
17 institution but are held for future disbursement for the benefit of students. Unearned tuition shall
18 be accounted for in accordance with general accepted accounting principles.

19 ...”

20 15. 5 CCR 71760 states:

21 “Each institution shall develop and maintain adequate procedures used by the institution to
22 assure that it is maintained and operated in compliance with the Act and this Division.”

23 16. 5 CCR 71800 states, in pertinent part:

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

26 ...

27 (b) Period covered by the enrollment agreement.

28 ...

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

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

5 (1) tuition;

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

7 ...”

8 17. 5 CCR § 71810 states, in pertinent part:

9 “...

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

12 ...

13 (13) Housing information including all of the following:

14 ...

15 (B) The availability of housing located reasonably near the institution's facilities and an
16 estimation of the approximate cost or range of cost of the housing; and

17 ...

18 (14) Policies on student rights, including the procedure for addressing student grievances;

19 ...”

20 18. 5 CCR § 74112 states, in pertinent part:

21 “(a) Format. The format for the Performance Fact Sheet shall be in at least 12 pt. type, in an
22 easily readable font, with 1.15 line spacing. The Performance Fact Sheet shall contain all and
23 only the information required or specifically permitted by section 94910 of the Code or this
24 chapter. A separate performance fact sheet shall be prepared for each program.

25 ...”

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27 //

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1 **CAUSE FOR DENIAL OF APPLICATION**

2 (Failure to demonstrate capacity to satisfy minimum operating standards)

3 19. Respondent's application for approval to operate is subject to denial under section
4 94887 of the California Education Code in that Respondent did not present sufficient evidence to
5 the Bureau that Respondent has the capacity to satisfy the minimum operating standards.

6 20. Respondent's "Application for Approval to Operate for an Institution Non-
7 Accredited" was received on September 18, 2015. The Bureau issued a deficiency letter on July
8 7, 2016. On September 9, 2016, the Bureau received a response to that deficiency letter. On
9 November 11, 2016, the Bureau sent Respondent a "Notice of Denial" letter stating that the
10 application is subject to denial under Code section 94887. The denial is based on the following:

11 a. The institution did not include the period covered by the enrollment agreement,
12 in violation of 5 CCR section 71800(b).

13 b. The institution did not include the date by which a student must exercise his or
14 her right to cancel or withdraw, in violation of 5 CCR section 71800(d).

15 c. The STRF assessment the institution provided is incorrect, in violation of 5
16 CCR 71475(p). Specifically, the assessment should be .00 to every \$1,000.00, not .50 to every
17 \$1,000.00 as indicated.

18 d. The institution failed to include the total charges for each program, in violation
19 of Education Code section 94911(b).

20 e. The institution failed to clearly identify registration fees as non-refundable, in
21 violation of Education Code section 94911(b) and 5 CCR 71800(e)(2).

22 f. The institution failed to include the specific required verbatim statement
23 directing students to the bureau for unanswered questions, in violation of Education Code section
24 94911(j)(1). Specifically, the institution did not include the address, website, telephone and fax
25 number for the bureau.

26 g. The institution failed to include the specific required statement verbatim for
27 filing a complaint with the Bureau, in violation of Education Code section 94911(j)(2).

28 //

1 h. The institution failed to include a clear and consistent cancellation, withdrawal,
2 and refund policy, in violation of Education Code section 94909(a)(8)(B).

3 i. The institution failed to provide a current reviewed financial statement
4 completed by a licensed CPA in accordance with generally accepted accounting principles, in
5 violation of 5 CCR 71240(b) and 71745(a)(1) through (a)(6).

6 j. The institution failed to provide a complete copy of the lease, in violation of 5
7 CCR 71260(b).

8 k. The institution failed to disclose whether or not they have entered into an
9 articulation or transfer agreement with any other college or university, in violation of Education
10 Code Section 94909(a)(8)(A).

11 l. The institution failed to provide a description of all of the programs offered
12 along with a description of the instruction provided in each of the courses offered, in violation of
13 Education Code Section 94909(a)(5).

14 m. The institution failed to provide a list of the requirements for eligibility for
15 licensure, in violation of Education Code Section 94909(a)(6).

16 n. The institution failed to include a statement disclosing that a student enrolled in
17 an unaccredited institution is not eligible for federal financial aid programs, in violation of
18 Education Code Section 94909(a)(16).

19 o. The institution failed to provide a schedule of total charges for a period of
20 attendance or an estimated schedule of total charges for the entire educational program, in
21 violation of Education Code Section 94909(a)(9).

22 p. The institution failed to provide their policies on student rights, including the
23 procedure for addressing student grievances, in violation of 5 CCR 71810(b)(14).

24 q. The institution failed to provide information regarding the availability of
25 housing located reasonably near the institution's facilities and an estimation of the approximate
26 cost or range of cost of housing, in violation of 5 CCR 71810(b)(13)(B).

27 r. The institution failed to provide School Performance Fact Sheets in the proper
28 format and possessing all of the required information; specifically, the completion rate table,

1 placement rate table, exam passage rate tables, annual salary and wage reported tables, and
2 definitions and Bureau required statements, in violation of Education Code Section 94910 and 5
3 CCR 74112.

4 s. The institution failed to provide a description of the self-monitoring procedures
5 used to ensure that it maintained and operated in compliance with applicable laws, in violation of
6 5 CCR Sections 71320 and 71760.

7 **PRAYER**

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

- 11 1. Denying the application of Abebah Baughman, Selah Beauty Academy for an
12 Approval to Operate an Institution Non-Accredited;
- 13 2. Taking such other and further action as deemed necessary and proper.

14
15 DATED: _____

7/7/17



16 JOANNE WENZEL
17 Chief, Bureau for Private Postsecondary Education
18 Department of Consumer Affairs
19 State of California
20 *Complainant*

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