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7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:	Case No. 998603
12 TRAMY BEAUTY SCHOOL, INC.	A C C U S A T I O N
13 DBA TRAMY BEAUTY SCHOOL,	
14 TRAMY THUY VAN, OWNER	
15 5911 University Ave, Suite 318	
16 San Diego, CA 92115	
17 School Code 34483623	
18 Approval to Operate No. 34483623	
19 Branch School Code 96110159	
20 641 N. Broadway	
21 Escondido, CA 92025	
22 Satellite School Code 90285809	
23 5911 University Ave, Suite 328	
24 San Diego, CA 92115	
25 Respondent.	

23 Complainant alleges:

24 **PARTIES**

25 1. Joanne Wenzel (Complainant) brings this Accusation solely in her official capacity as
26 the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of Consumer
27 Affairs.

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1 **Main Campus**

2 2. **Institution Code 34483623** - On or about December 5, 2006, the Bureau for Private
3 Postsecondary and Vocational Education¹ (hereinafter "BPPVE") issued Tramy Van (Van) a
4 temporary Approval to Operate Tramy Beauty School (Approval to Operate No. 34483623) at the
5 Main Campus located at 5911 University Ave., Suite 318, San Diego, CA 92115. A full
6 Approval to Operate Tramy Beauty School was issued on March 26, 2007. From July 1, 2007
7 through December 31, 2009, there was no regulatory body with oversight of private postsecondary
8 schools. The Approval to Operate included programs in advanced manicuring, barbering, barber
9 crossover, cosmetician, cosmetology crossover, manicuring, massage therapy, barber crossover
10 and cosmetology. The programs in barber crossover and cosmetology were discontinued on
11 August 8, 2014. The Approval to Operate was in full force and effect at all times relevant to the
12 charges brought herein and will expire on September 30, 2019, unless renewed. The school
13 closed September 12, 2016.

14 **Branch Location**

15 3. **School Code 96110159** - On June 3, 2011, the current Bureau issued an Approval to
16 Operate Tramy Beauty School, Branch Campus location, at 641 N. Broadway, Escondido, CA
17 92025. The Approval to Operate included programs in advanced manicuring, barbering, barber
18 crossover, cosmetician, cosmetology, cosmetology crossover, manicuring, massage therapy, and
19 barber crossover. The programs in barber crossover and cosmetology crossover were
20 discontinued on August 8, 2014. The Approval to Operate was in full force and effect at all times
21 relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.
22 The school closed September 12, 2016.

23 **Satellite Location**

24 4. **School Code 90285809** - On July 22, 2013, the current Bureau issued an Approval to
25 Operate Tramy Beauty School, Satellite Campus location, at 5911 University Ave., Suite 328, San

26 ¹ The former Bureau for Private Postsecondary and Vocational Education sunsetted on
27 July 1, 2007. On October 11, 2009, the Bureau for Private Postsecondary Education Act of 2009
28 (AB 48) was signed into law. The Act, which became operative on January 1, 2010, established
the Bureau for Private Postsecondary Education (hereinafter "Bureau").

1 Diego, CA 92115. The Approval to Operate included programs in advanced manicuring,
2 barbering, barber crossover, cosmetician, cosmetology, osmetology crossover, manicuring,
3 massage therapy, and barber crossover. The Approval to Operate was in full force and effect at
4 all times relevant to the charges brought herein and expired on December 5, 2013, and has not
5 been renewed.

6 JURISDICTION

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

10 6. Education Code (Code) section 94932 states:

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

20 7. Code section 94933 states:

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

26 8. Code section 94937 states:

27 (a) As a consequence of an investigation, and upon a finding that an institution
28 has committed a violation, the bureau may place an institution on probation or
may suspend or revoke an institution's approval to operate for:

(1) Obtaining an approval to operate by fraud.

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

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

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

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

5 9. Business and Professions Code section 118 states, in part:

6 ...

7 (b) The suspension, expiration, or forfeiture by operation of law of a license
8 issued by a board in the department, or its suspension, forfeiture, or cancellation by
order of the board or by order of a court of law, or its surrender without the written
9 consent of the board, shall not, during any period in which it may be renewed,
restored, reissued, or reinstated, deprive the board of its authority to institute or
10 continue a disciplinary proceeding against the licensee upon any ground provided
by law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground.

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

14 **STATUTORY AND REGULATORY PROVISIONS**

15 10. Business and Professions Code section 477 states:

16 As used in this division:

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

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

20 11. Code section 94893 states:

21 If an institution intends to make a substantive change to its approval to operate, the
22 institution shall receive prior authorization from the bureau. Except as provided in
subdivision (a) of Section 94896, if the institution makes the substantive change
23 without prior bureau authorization, the institution's approval to operate may be
suspended or revoked.

24 12. Code section 94894 states in part:

25 The following changes to an approval to operate are considered substantive
26 changes and require prior authorization:

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

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13. Code section 94897 states in part:

An institution shall not do any of the following:

...

(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:

...

(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.

14. Code section 94898, subdivision (b) states in part, "After a student has enrolled in an educational program, the institution shall not do either of the following: (1) Make any unscheduled suspension of any class unless caused by circumstances beyond the institution's control. ..."

15. Code section 94899 states:

If an institution offers an educational program in a profession, occupation, trade, or career field that requires licensure in this state, the institution shall have an educational program approval from the appropriate state licensing agency to conduct that educational program in order that a student who completes the educational program, except as provided in Section 94905, is eligible to sit for any required licensure examination.

16. Code section 94900 states:

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

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

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

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

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

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1 17. Code section 94900.5 states:

2 An institution shall maintain, for a period of not less than five years, at its
3 principal place of business in this state, complete and accurate records of all of the
4 following information:

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

7 (b) The names and addresses of the members of the institution's faculty and
8 records of the educational qualifications of each member of the faculty. ...

9 18. Code section 94902 states in part:

10 (a) A student shall enroll solely by means of executing an enrollment agreement.
11 The enrollment agreement shall be signed by the student and by an authorized
12 employee of the institution.

13 (b) An enrollment agreement is not enforceable unless all of the following
14 requirements are met:

15 (1) The student has received the institution's catalog and School Performance
16 Fact Sheet prior to signing the enrollment agreement.

17 ...

18 (3) Prior to the execution of the enrollment agreement, the student and the
19 institution have signed and dated the information required to be disclosed in the
20 Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of
21 Section 94910. Each of these items in the Student Performance Fact Sheet shall
22 include a line for the student to initial and shall be initialed and dated by the
23 student.

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

26 19. Code section 94905 states in part:

27 (a) During the enrollment process, an institution offering educational programs
28 designed to lead to positions in a profession, occupation, trade, or career field
requiring licensure in this state shall exercise reasonable care to determine if the
student will not be eligible to obtain licensure in the profession, occupation, trade,
or career field at the time of the student's graduation and shall provide all students
enrolled in those programs with a written copy of the requirements for licensure
established by the state, including any applicable course requirements established
by the state. If the minimum course requirements of the institution exceed the
minimum requirements for state licensure, the institution shall disclose this
information, including a list of those courses that are not required for state
licensure. The institution shall not execute an enrollment agreement with a student
that is known to be ineligible for licensure, unless the student's stated objective is
other than licensure.

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1 20. Code section 94906 states in part:

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

7 (b) If the recruitment leading to enrollment was conducted in a language other than
8 English, the enrollment agreement, disclosures, and statements shall be in that
9 language.

10 21. Code section 94909 states in part:

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

14 ...

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

16 ...

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

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

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

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

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

39 ...

40 (11) A statement specifying that, if a student obtains a loan to pay for an
41 educational program, the student will have the responsibility to repay the full

1 amount of the loan plus interest, less the amount of any refund, and that, if the
2 student has received federal student financial aid funds, the student is entitled to a
3 refund of the moneys not paid from federal student financial aid program funds.

4 (14) A description of the student's rights and responsibilities with respect to
5 the Student Tuition Recovery Fund. This statement shall specify that it is a state
6 requirement that a student who pays his or her tuition is required to pay a state-
7 imposed assessment for the Student Tuition Recovery Fund. This statement shall
8 also describe the purpose and operation of the Student Tuition Recovery Fund and
9 the requirements for filing a claim against the Student Tuition Recovery Fund.

10 (15) The following statement:

11 "NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
12 CREDENTIALS EARNED AT OUR INSTITUTION

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

25 ...
26 22. Code section 94911 states in part:

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

28 (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.

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

4 (i) (1) The following statement: "Prior to signing this enrollment agreement,
5 you must be given a catalog or brochure and a School Performance Fact Sheet,
6 which you are encouraged to review prior to signing this agreement. These
7 documents contain important policies and performance data for this institution.
8 This institution is required to have you sign and date the information included in
9 the School Performance Fact Sheet relating to completion rates, placement rates,
10 license examination passage rates, salaries or wages, and the most recent three-year
11 cohort default rate, if applicable, prior to signing this agreement."

12 (2) Immediately following the statement required by paragraph (1), a line for
13 the student to initial, including the following statement: "I certify that I have
14 received the catalog, School Performance Fact Sheet, and information regarding
15 completion rates, placement rates, license examination passage rates, salary or
16 wage information, and the most recent three-year cohort default rate, if applicable,
17 included in the School Performance Fact sheet, and have signed, initialed, and
18 dated the information provided in the School Performance Fact Sheet." ...

19 23. Code section 94912 states:

20 Prior to the execution of an enrollment agreement, the information required to be
21 disclosed pursuant to subdivisions (a) to (d), inclusive, of Section 94910 shall be
22 signed and dated by the institution and the student. Each of these items shall also
23 be initialed and dated by the student.

24 24. Code section 94913 states:

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

27 (1) The school catalog.

28 (2) A School Performance Fact Sheet for each educational program offered
by the institution.

(3) Student brochures offered by the institution.

(4) A link to the bureau's Internet Web site.

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

(b) An institution shall include information concerning where students may access
the bureau's Internet Web site anywhere the institution identifies itself as being
approved by the bureau.

29 25. Code section 94926 states:

30 At least 30 days prior to closing, the institution shall notify the bureau in writing of
31 its intention to close. The notice shall be accompanied by a closure plan, which
32 shall include, but not necessarily be limited to, all of the following:

1 (a) A plan for providing teach-outs of educational programs, including any
2 agreements with any other postsecondary educational institutions to provide teach-
3 outs.

4 (b) If no teach-out plan is contemplated, or for students who do not wish to
5 participate in a teach-out, arrangements for making refunds within 45 days from
6 the date of closure, or for institutions that participate in federal student financial
7 aid programs arrangements for making refunds and returning federal student
8 financial aid program funds.

9 (c) If the institution is a participant in federal student financial aid programs, it
10 shall provide students information concerning these programs and institutional
11 closures.

12 (d) A plan for the disposition of student records.

13 26. Code section 94927 states:

14 An institution shall be considered in default of the enrollment agreement when an
15 educational program is discontinued or canceled or the institution closes prior to
16 completion of the educational program. When an institution is in default, student
17 institutional charges may be refunded on a pro rata basis if the bureau determines
18 that the school has made provision for students enrolled at the time of default to
19 complete a comparable educational program at another institution at no additional
20 charge to the students beyond the amount of the total charges in the original
21 enrollment agreement. If the institution does not make that provision, a total refund
22 of all institutional charges shall be made to students.

23 27. Code section 94927.5 states:

24 (a) Prior to closing, an institution shall provide the bureau with the following:

25 (1) Pertinent student records, including transcripts, as determined by the
26 bureau, pursuant to regulations adopted by the bureau.

27 (2) If the institution is an accredited institution, a plan for the retention of
28 records and transcripts, approved by the institution's accrediting agency, that
provides information as to how a student may obtain a transcript or any other
information about the student's coursework and degrees completed.

(b) Subdivision (a) applies to all private postsecondary institutions, including
institutions that are otherwise exempt from this chapter pursuant to Article 4
(commencing with Section 94874).

28 28. Code section 94929 states in part:

(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 on-time graduates by the number of students
available for graduation.

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29. Code section 94929.5 states in part:

(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.

...

30. Code section 94929.7 states in part:

(a) The information used to substantiate the rates and information calculated pursuant to Sections 94929 and 94929.5 shall do both of the following:

(1) Be documented and maintained by the institution for five years from the date of the publication of the rates and information.

(2) Be retained in an electronic format and made available to the bureau upon request.

(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.

...

31. Code 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:

...

(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

...

32. Title 5, California Code of Regulations (CCR), section 71720 states in part:

...

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

...

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1 (2) Each instructor shall maintain their knowledge by completing continuing
2 education courses in his or her subject area, classroom management or other
3 courses related to teaching.

4 33. Title 5, CCR, section 71730 states in part:

5 ...
6 (b) The duties, responsibilities, and performance evaluation criteria for each
7 administrator shall be set forth in a personnel manual or other writing maintained
8 by the institution.

9 ...
10 (e) The chief academic officer shall possess a degree or equivalent acceptable
11 experience at least equal to the highest qualifications required of the institution's
12 faculty. Chief academic officers employed on the date of implementation of these
13 regulations, who do not meet the qualifications for their positions, shall have three
14 years to earn the necessary degrees or experience to qualify them for their position.

15 ...
16 34. Title 5, CCR, section 71745 states in part:

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

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

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

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

24 ...
25 (5) Pay all operating expenses due within 30 days.
26 ...

27 35. Title 5, CCR, section 71770 states in part:

28 (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

1 successfully take and pass the relevant examination as required by section 94904 of
the Code.

2 ...

3 36. Title 5, CCR, section 71800 states in part:

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

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

7 ...

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

9 ...

10 (4) lab supplies or kits;

11 (5) Textbooks, or other learning media;

12 (6) uniforms or other special protective clothing;

13 ...

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

15 ...

16
17 37. Title 5, CCR, section 71810 states in part:

18 ...

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

21 ...

22 (3) If the institution admits students from other countries, whether visa
services are provided or whether the institution will vouch for student status, and
23 any associated charges;

24 (4) Language proficiency information, including: (A) the level of English
language proficiency required of students and the kind of documentation of
25 proficiency, such as the Test of English as a Foreign Language (TOEFL), that will
be accepted; and (B) whether English language services, including instruction such
26 as ESL, are provided and, if so, the nature of the service and its cost;

27 ...

28 (6) The institution's policies and practices regarding any form of financial
aid, including all consumer information which the institution is required to disclose

to the student under any state or federal financial aid program;

...

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

(10) A description of library and other learning resources and the procedures for student access to those resources;

...

38. Title 5, CCR, section 71920 states in part:

(a) The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service.

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

...

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

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

...

(C) Grades or findings from any examination of academic ability or educational achievement used for admission or college placement purposes;

...

(3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid;

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

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

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

///

(E) The name, address, website address, and telephone number of the institution.

...

(9) A document showing the total amount of money received from or on behalf of the student and the date or dates on which the money was received;

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

...

39. Title 5, CCR, section 71930 states in part:

(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.

...

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

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

...

(3) The institution has personnel scheduled to be present at all times during normal business hours who know how to operate the devices and can explain the operation of the devices to any person authorized by the Act to inspect and copy records; and

...

(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.

...

1 40. Title 5, CCR, section 74112 states in part:

2 (a) Format. The format for the Performance Fact Sheet shall be in at least 12 pt.
3 type, in an easily readable font, with 1.15 line spacing and all titles and column
4 headings shall be in bold 14 pt. type, which shall also identify the program for
5 which the Performance Fact Sheet pertains. The Performance Fact Sheet shall
6 contain all and only the information required or specifically permitted by sections
7 94910 and 94929.5 of the Code or this chapter. A separate Performance Fact Sheet
8 shall be prepared for each program.

9 ...

10 (e) Reporting periods:

11 ...

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

16 ...

17 (h) Completion Rates. Reporting of completion rates for an institution's Annual
18 Report and Performance Fact Sheet shall include, for each educational program,
19 the number of students who began the program as defined in subdivision (d)(1) of
20 this section, the number of students available for graduation, number of on-time
21 graduates, and completion rate(s). An optional table may be added to include
22 completion rate data for students completing within 150% of the published
23 program length. For an institution reporting completion data pursuant to section
24 94929(b) of the Code, completion data shall be separately reported for each
25 program and the Performance Fact Sheet shall disclose, if true, that the completion
26 data is being reported for students completing within 150% of the published
27 program length, and that data is not being separately reported for students
28 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):

...

(i) Job Placement Rates.

(1) Any placement data required by sections 94910(b) and 94929.5(a) of the
Code shall be reported for the number of students who began the program as
defined in subdivision (d)(1) of this section for each reported calendar year.

(2) Placement is measured six months from the graduation date of each
student. For programs that require passage of a licensing examination, placement
shall be measured six months after the announcement of the examination results
for the first examination available after a student completes an applicable
educational program. Reporting of placement rates shall include for each

1 educational program: the number of students who began the program, the number
2 of graduates as defined in section 94842 of the Code, the graduates available for
3 employment, graduates employed in the field and job placement rate(s).

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

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

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

20 Reporting of license examination passage rates for the Annual Report and the
21 Performance Fact Sheet shall include, for each educational program: the number of
22 graduates in the reported year, the number of documented graduates who passed
23 the first available examination, number of documented graduates who failed the
24 first available examination, the number of graduates for whom data is not
25 available. An optional column may be added to separately report licensing
26 examination data for graduates who take and pass the exam after failing initially.
27 The Annual Report shall also include a description of the processes for attempting
28 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)

Calendar Year	Number of Graduates 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	109	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.

...

(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).

...

(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. ...

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41. Title 5, CCR, section 74140 states:

Every institution shall retain, for a minimum of five years, copies of all advertising, including (a) flyers, brochures, newspaper, and other print advertisements, (b) scripts for, and audio and video recordings of, broadcast advertisements, and (c) internet content, and (d) scripts for telephone solicitations. The institution shall make these records immediately available for inspection and copying during normal business hours to site visit teams and the Bureau.

42. Title 5, CCR, section 76130 states 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.

...

43. Title 5, CCR, section 76140 states:

(a) 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,
- (12) Total institutional charges charged, and
- (13) Total institutional charges paid.

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

44. Title 5, CCR, section 76215 states:

(a) A qualifying institution shall include the following statement on both its enrollment agreement for an educational program and its current schedule of student charges:

“You must pay the state-imposed assessment for the Student Tuition Recovery Fund (STRF) if all of the following applies to you:

1. 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 either by cash, guaranteed student loans, or personal loans, and

2. Your total charges are not paid by any third-party payer such as an employer, government program or other payer unless you have a separate agreement to repay the third party.

You are not eligible for protection from the STRF and you are not required to pay the STRF assessment, if either of the following applies:

1. You are not a California resident, or are not enrolled in a residency program, or

2. Your total charges are paid by a third party, such as an employer, government program or other payer, and you have no separate agreement to repay the third party.”

(b) In addition to the statement described under subdivision (a) of this section, a qualifying institution shall include the following statement on its current schedule of student charges:

“The State of California created the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic losses suffered by students in educational programs who are California residents, or are enrolled in a residency

1 programs attending certain schools regulated by the Bureau for Private
2 Postsecondary and Vocational Education.

3 You may be eligible for STRF if you are a California resident or are enrolled
4 in a residency program, prepaid tuition, paid the STRF assessment, and
5 suffered an economic loss as a result of any of the following:

6 1. The school closed before the course of instruction was completed.

7 2. The school's failure to pay refunds or charges on behalf of a student to a
8 third party for license fees or any other purpose, or to provide equipment or
9 materials for which a charge was collected within 180 days before the
10 closure of the school.

11 3. The school's failure to pay or reimburse loan proceeds under a federally
12 guaranteed student loan program as required by law or to pay or reimburse
13 proceeds received by the school prior to closure in excess of tuition and
14 other costs.

15 4. There was a material failure to comply with the Act or this Division
16 within 30 days before the school closed or, if the material failure began
17 earlier than 30 days prior to closure, the period determined by the Bureau.

18 5. An inability after diligent efforts to prosecute, prove, and collect on a
19 judgment against the institution for a violation of the Act.”

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

22 45. Title 5, CCR, section 76240 states:

23 All institutions, including those exempt from Bureau regulation pursuant to the
24 Code, shall do the following prior to closing:

25 (a) At least 30 days prior to closing, the institution shall notify the Bureau in
26 writing of its intention to close and provide a closure plan. The closure plan shall
27 include:

28 (1) The exact date and reason for the closure.

(2) The last date of instruction for each educational service or program.

(3) A list of students who were enrolled at any time during the 60 days prior
to closure.

(4) If any student will not be provided complete educational services or the
educational program, the institution shall provide:

(A) A plan for providing teach-outs or transfers, including the details
of any agreements with other institutions.

(B) If no teach-out is contemplated, or for students who do not wish
to participate in a teach-out, arrangements for making refunds within
45 days from the date of closure, or for institutions that participate in
federal student financial aid programs arrangements for making
refunds and returning federal student financial aid program funds.

1 (5) A plan for the disposition of student records.

2 (6) A plan to notify students of their rights and options under the Act and this
chapter.

3 (b) The institution shall notify the students of the following:

4 (1) If the institution is a participant in federal student financial aid programs,
5 it shall provide students information concerning those programs and institutional
closures.

6 (2) If any student will not be provided complete educational services or the
7 educational program, information regarding the Student Tuition Recovery Fund
and the Bureau's physical and Internet addresses.

8 COST RECOVERY

9 46. Business and Professions Code section 125.3 provides, in pertinent part, that the
10 Board may request the administrative law judge to direct a licentiate found to have committed a
11 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
12 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the
13 license to not being renewed or reinstated. If a case settles, recovery of investigation and
14 enforcement costs may be included in a stipulated settlement.

15 FACTS

16 47. Between November 20, 2012, and December 23, 2014, the Bureau received nine
17 complaints from former students and employees of Respondent institution as well as a former
18 owner. The complaints alleged Respondent was "selling hours" and requiring students to write a
19 withdrawal letter in exchange for their proof of training, improperly executed enrollment
20 agreements, financial aid fraud, failure to refund fees, and inappropriate collection of students'
21 personal information, among other things.

22 48. On or about July 6, 2016, Bureau investigators conducted compliance inspections of
23 the institution's main campus in San Diego and satellite campus in Escondido. Bureau
24 Investigator C.N. conducted an the enforcement investigation of the San Diego location with
25 M.W., a Compliance Inspector; S.R. from the Division of Investigation, Department of Consumer
26 Affairs (DOI); and P.D. from the US. Department of Education (DOE). Upon arriving at the San
27 Diego location, they were greeted by Respondent's Director of Education, A.R., who advised that
28

1 Van, the owner of the institution, would arrive at about 10:00 a.m. Van did not arrive at the San
2 Diego location that day or the following day.

3 49. None of the staff at the San Diego location were able to access the institution's
4 management system (RGM system). The RGM system is a third party database used by
5 institutions to track student enrollment, financial aid (including awards and disbursements),
6 tuition payments, attendance, grades, enrollment status changes, refund calculations and
7 placement. According to another employee of the institution, J.G., access to the RGM was taken
8 away from all of the institution's employees.

9 50. Student files were present on site but were not secured as some of the locks on filing
10 cabinets were missing; some files were on desks and in boxes. C.N. obtained copies of the
11 student files of A.H., D.G., H.F., H.L., H.H. M.K., M.C., N.J., P.T., T.T. P.N., and Tr.T. C.N.
12 also obtained eight employee files of: A.R., A.L., D.S., D.P., H.S., M.G., Y.L and Van.

13 51. During C.N.'s review of the student and employee files, she noted flyers in
14 Vietnamese, blank verification form for Continuing Education and a blank certificate for Barristar
15 Training. The Barristar certificate certified that the holder "successfully completed classes or
16 demonstrations in ... cosmetology ..."

17 52. Also on July 6-7, 2016, Bureau investigator P.T. conducted the enforcement
18 inspection of the Escondido location with K.H. from DOI; M.A. from the Bureau; and, P.M. from
19 the US. Department of Education. The institution's Director of Education M.G. greeted the
20 inspectors and advised that neither Van, nor the Director of Financial Aid (A.M.) and Director of
21 Admissions (M.T.) were available. M.G. was also not able to provide access to the RGM system
22 but led the investigators to a room where student records and school files were stored. The files
23 were not kept in a secure manner in that the room was unlocked and unsupervised and file
24 cabinets were unlocked.

25 53. P.T. and M.A. conducted student surveys of the cosmetology students who were
26 present in the classroom. Student surveys and interviews revealed that there were many students
27 whose primary language was not English. Before enrolling, some students were falsely told that
28

1 there would be Vietnamese instructors, only to discover that instructors only spoke English or
2 Spanish.

3 54. The following student files were copied during the inspection on July 6, 2016 of the
4 Escondido location: L.L., A.G., B.N., D.M., N.H., and J.A. Enrollment agreements of M.A.,
5 P.S., A.G., J.G., L.M., B.P., J.L., E.V. and T.W. were found in a stack on the bottom shelf of a
6 cabinet labeled "Current Students."

7 55. On or about August 11, 2016, Van was arrested for procuring or offering false
8 documents, grand theft and obtaining money under false pretenses, however criminal charges
9 were not brought against Van.

10 56. On or about August 18, 2016, the Bureau received Van's Closed School Plan for the
11 Main campus in San Diego and the Branch location in Escondido. The date for closure was
12 September 12, 2016 for both locations, and the reason given for closure was retirement and lack
13 of funding.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Documentation of Faculty Continuing Education)**

16 57. Respondent is subject to disciplinary action under title 5, CCR, section 71720, for
17 failing to document that each instructor maintains his/her knowledge by completing continuing
18 education courses in his or her subject area, classroom management or other courses related to
19 teaching, as follows and as set forth in paragraphs 47 - 56 above, which are incorporated herein
20 as though set forth in full. The institution employee policy requires instructions to complete a
21 minimum of 12 hours of continuing education each year, four of which shall be in classroom
22 management. The institution does not have faculty records showing the instructions completed
23 the required continuing education requirements in the last year. The faculty files for A.R., A.L.,
24 D.S., D.P. H.S., M.G., Y.L. and Van had no continuing education records for 2015. The faculty
25 records of D.P., H.S., M.G. and Y.L. did not contain any continuing education documentation at
26 all.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Qualifications of Administration)**

3 58. Respondent is subject to disciplinary action under title 5, CCR, section 71730, for
4 failing to document that the institution's Chief Academic Officer, A.R., possessed the experience
5 and administrative qualifications to administer the institution's academic affairs, supervision of
6 faculty, development of curricula and implementation of the institution's missions and objectives
7 in that A.R.'s file did not contain an application for employment or resume, as set forth herein and
8 in paragraphs 47 – 56 above, which are incorporated herein as though set forth in full.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Financial Resources)**

11 59. Respondent is subject to disciplinary action under title 5, CCR, section 71745, for
12 failing to document the institution has at all times sufficient assets and financial resources to
13 provide all of the educational programs that the institution represented it would provide; ensure
14 that all students admitted to its educational programs have a reasonable opportunity to complete
15 the programs and obtain their degrees or diplomas; maintain the minimum standards required by
16 the Act; and, pay all operating expenses due within 30 days. The circumstances are as follows
17 and as set forth in paragraphs 47 – 56 above, which are incorporated herein as though set forth in
18 full.

19 60. The institution failed to pay their lease at the San Diego location and was sued by the
20 property's management company. The institution was ordered to pay the management company
21 about \$161,288.00. The U.S. Dept. of Education placed Respondent on Heightened Cash
22 Monitoring 2 on June 2, 2016. Respondent failed the Bureau's Thirty Day Operating Expense
23 Test for 2014 and 2015. According to students, Respondent is only accept cash-paying students
24 and is turning away students requiring financial aid and refusing to refund financial aid students.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Admissions Policy)**

27 61. Respondent is subject to disciplinary action under title 5, CCR, section 71770, in that
28 Respondent's admissions policy violates the requirement that each student admitted to an

1 undergraduate degree program or diploma program possess a high school diploma or its
2 equivalent, as follows and as set forth in paragraphs 47 – 56 above, which are incorporated herein
3 as though set forth in full. The admissions policy in Respondent’s catalog includes admissions
4 requirements for home-schooled students. However, the catalog also states that home-schooled
5 students are not considered to have a high school diploma or equivalent. As such, the institution’s
6 policy does not establish home-schooling completion as the equivalent of a high school diploma.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Minimum Requirements for Enrollment Agreement)**

9 62. Respondent is subject to disciplinary action under title 5, CCR, section 71800 and
10 Code section 94911 for failing to provide each student with an enrollment agreement that contains
11 the required information as set forth below and in paragraphs 47 - 56 above, which are
12 incorporated herein as though set forth in full:

13 a. The enrollment agreement does not contain the addresses where instruction will be
14 provided, as required by title 5, CCR, section 71800(a).

15 b. The enrollment agreement on Respondent’s website does not itemize charges
16 separately for kits and textbooks, as required by title 5, CCR, section 71800(e)(4) and (5).

17 c. Enrollment agreements in student files showed charges for uniforms that were not
18 itemized in the schedule of charges, as required by title 5, CCR, section 71800(e)(6).

19 d. The enrollment agreement does not identify the Student Tuition Recovery Fund fee as
20 a non-refundable charge in the itemization of charges, as required by title 5, CCR, section
21 71800(e)(11).

22 e. The enrollment agreement does not contain a schedule of total charges, including a
23 list of any charges that are nonrefundable and does not include the student's obligations to the
24 Student Tuition Recovery Fund, clearly identified as being nonrefundable, as required by Code
25 section 94911(b).

26 f. The enrollment agreement does not contain the total charges for the current period of
27 attendance, the estimated total charges for the entire educational program, and the total charges
28 the student is obligated to pay upon enrollment in underlined capital letters on the same page of

1 the enrollment agreement in which the student's signature is required, as required by Code section
2 94911(c).

3 g. The enrollment agreement does not contain a clear and conspicuous statement that the
4 enrollment agreement is legally binding when signed by the student and accepted by the
5 institution, as required by Code section 94911(d).

6 h. The enrollment agreement does not contain a disclosure describing the procedures a
7 student is required to follow to cancel the enrollment agreement or withdraw from the institution
8 and obtain a refund, as required by Code section 94911(e)(3).

9 i. The enrollment agreement does not contain the specific required language verbatim
10 regarding the SPFS in that the following language was missing "and the most recent three-year
11 cohort default rate, if applicable," as required by Code section 94911(i)(1) and (2).

12 SIXTH CAUSE FOR DISCIPLINE

13 (Deficiencies in Catalog)

14 63. Respondent is subject to disciplinary action under title 5, CCR, section 71810, for
15 failing to include the requisite information in its catalog as set forth below and in paragraphs 47 -
16 56 above, which are incorporated herein as though set forth in full:

17 a. The catalog obtained from the institution's website on June 27, 2016, does not specify
18 whether the institution admits students from other countries, whether visa services are provided,
19 or whether the institution will vouch for student status, and any associated charges, as required by
20 section 71810(b)(3).

21 b. The catalog does not state the level of English language proficiency required of
22 students and the kind of documentation of proficiency that will be accepted, as required by section
23 71810(b)(4)(A).

24 c. The catalog does not set forth the institution's policies and practices regarding all
25 forms of financial aid. The catalog offers a scholarship but does not include the policies and
26 practices for the scholarship, as required by section 71810(b)(6).

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1 d. The catalog for January 1, 2016 – December 31, 2016, does not contain a description
2 of the types of equipment and materials that will be used for instruction, as required by section
3 71810(b)(9).

4 e. The catalog contains a description of library and other learning resources but does not
5 contain and the procedures for student access to those resources, as required by section
6 71810(b)(10).

7 SEVENTH CAUSE FOR DISCIPLINE

8 **(Student Records – Failure to Demonstrate Institution Maintained File for Each Student)**

9 64. Respondent is subject to disciplinary action under title 5, CCR, section 71920(a), for
10 failing to demonstrate that it maintained a file for each student who enrolled in the institution
11 whether or not the student completed the educational service, as follows and as set forth in
12 paragraphs 47 - 56 above, which are incorporated herein as though set forth in full. Respondent
13 was unable to provide a list of current, graduated, withdrawn and cancelled students during the
14 Bureau's visits on July 6-7, 2016, and could not explain why the records were not produced.

15 EIGHTH CAUSE FOR DISCIPLINE

16 **(Student Records – Failure to Include Required Records)**

17 65. Respondent is subject to disciplinary action under title 5, CCR, section 71920(b) for
18 failing to maintain student records that contained the required records as set forth below and in
19 paragraphs 47 - 56 above, which are incorporated herein as though set forth in full:

20 a. Respondent failed to maintain written records and transcripts of any formal education
21 or training, testing, or experience that are relevant to the student's qualifications for admission to
22 the institution or the institution's award of credit or acceptance of transfer credits as required by
23 title 5, CCR, section 71920(b)(1)(A) and (C) as follows:

24 i. The student file of A.H. contained an affidavit statement of education. The student
25 files of D.G. and H.F. contained high school diplomas from Winford High School with the same
26 graduation date. Winford High School is not accredited nor recognized as a high school by the
27 U.S. Dept. of Education. H.L. certified her own translation of her Vietnamese High School
28 diploma. N.J.'s student file contained a transcript that was not translated. The student files of

1 H.N., M.N., T.H. and K.L. did not contain high school diplomas or successful completion of an
2 ability to benefit examination.

3 ii. Respondent did not maintain student records for each student showing the grade
4 or score from the entrance examination (CPAT) used for admission, as required by section
5 71920(b)(1)(C).

6 b. Respondent failed to maintain copies of all documents signed by the student,
7 including contracts, instruments of indebtedness, and documents relating to financial aid, as
8 required by title 5, CCR, section 71920(b)(3) in that not all of the student records contained an
9 executed enrollment agreement.

10 c. Respondent failed to maintain records of the dates of enrollment and, if applicable,
11 withdrawal from the institution, leaves of absence, and graduation for each student, as required by
12 title 5, CCR. Section 71920(b)(4). The records reviewed of current students did not contain
13 current attendance records showing the dates of enrollment.

14 d. Respondent failed to maintain records of student transcripts showing the courses or
15 other educational programs that were completed, or were attempted but not completed, and the
16 dates of completion or withdrawal, as required by title 5, CCR. Section 71920(b)(5)(A).

17 e. Respondent failed to maintain records of student transcripts showing the name,
18 address, website address, and telephone number of the institution, as required by section
19 71920(b)(5)(C).

20 f. Respondent failed to maintain records showing the total amount of money received
21 from or on behalf of the student and the date or dates on which the money was received, as
22 required by section 71920(b)(9).

23 f. Respondent failed to maintain records of student refunds, as required by title 5, CCR,
24 section 71920(b)(10).

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1 NINTH CAUSE FOR DISCIPLINE

2 (Maintenance of Records)

3 66. Respondent is subject to disciplinary action under title 5, CCR, section 71930(a) for
4 failing to maintain all the records required as set forth below and in paragraphs 47 - 56 above,
5 which are incorporated herein as though set forth in full.

6 a. Respondent failed to maintain the required student records as follows:

7 i. Respondent was unable to produce records of students from within the last five
8 years from the student's date of completion or withdrawal. The institution was unable to produce
9 transcripts for current, withdrawn/cancelled, and graduated students, as required by title 5, CCR,
10 sections 71930(b)(1).

11 ii. On July 7, 2016, Bureau investigator M.W. reviewed 15 student files. None of
12 the files reviewed contained student transcripts from the institution, in violation of Code section
13 94900(b).

14 b. Respondent failed to have personnel present at all times during normal business hours
15 who know how to operate the institution's devices and can explain the operation of the devices to
16 any person authorized by the Act to inspect and copy records, as required by title 5, CCR, section
17 71930(c)(3).

18 i. Respondent's personnel could not assist Bureau investigators on July 6-7, 2016,
19 with locating all of the requested records. When records were requested of Van, Van advised
20 investigators she did not have the time or manpower to copy records for the investigator. Van did
21 not state she was not able to locate the records requested.

22 c. Respondent failed to maintain a second set of all the required academic and financial
23 records at a different location unless the original records are maintained in a manner secure from
24 damage or loss, such as in fire resistant cabinets, as required by title 5, CCR, section 71930(d).

25 i. Respondent's records were stored in unlocked metal filing cabinets. Files were
26 not in fire resistant cabinets but were stored in boxes on desks or in an unlocked office where
27 students had free access.

28

1 d. Respondent failed to maintain the required records pertaining to the educational
2 programs and faculty, as required by Code section 94900.5.

3 i. Bureau investigators requested copies of the curricula for all programs from
4 Van for both locations on July 25, 2016. On February 25, 2016, the Bureau received an e-mail
5 from Van stating that copies these documents would take a large amount of her time and staff's
6 time. Van stated it would take at least two weeks to prepare the documentation requested and
7 offered to loan the documents to Bureau investigators or to have Bureau staff copy them on
8 campus. The Bureau has not received any copies of the curricula requested. This is also a
9 violation of title 5, CCR, 71930(e).

10 ii. The institution's faculty records of H.S., R.T., T.N., D.S. and Van were
11 reviewed. The faculty records did not include the names and addresses of the members of the
12 institution's faculty and records of the educational qualifications of each member of the faculty.
13 The records did not include completion of continuing education required by title 5, CCR, section
14 71720(b)(2).

15 **TENTH CAUSE FOR DISCIPLINE**

16 **(Annual Report and Performance Fact Sheet)**

17 67. Respondent is subject to disciplinary action under title 5, CCR, section 74112 and
18 Code sections 94929, 94929.5, 94929.7 and 94934(a)(4), for failing to comply with the report
19 requirements for the institution's Performance Fact Sheet as set forth below and in paragraphs 47
20 - 56 above, which are incorporated herein as though set forth in full:

21 a. Respondent did not provide its most recent Annual Report and did not make available
22 on its website its School Performance Fact Sheet (SPFS) for the last two calendar years, as
23 required by title 5, CCR, section 74112(e)(2) and Code section 94934(a)(4).

24 b. Respondent's 2013/2014 SPFS does not contain all, and only the, information
25 required for each educational program offered. Respondent provided a cumulative SPFS that
26 combined programs offered at the San Diego and Escondido locations on one SPFS and did not
27 identify the program for which it was reporting, in violation of title 5, CCR, section 74112(a) and
28 Code section 94929(a).

1 c. Respondent's 2013/2014 SPFS does not contain the completion rates for each
2 educational program offered at each of the two locations, as required by title 5, CCR, section
3 74112(h) and Code section 94929(a).

4 d. Respondent's 2013/2014 SPFS does not contain job placement data for each
5 educational program and for each location, as required by title 5, CCR, section 74112(i) and Code
6 section 94929.5(a)(1).

7 e. Respondent's 2013/2014 SPFS does not report license examination passage rates for
8 each educational program leading to employment for which passage of a state licensing
9 examination is required, as required by title 5, CCR, section 74112(j).

10 f. Respondent's 2013/2014 SPFS does not contain salary and wage data for each
11 educational program and each location, as required by title 5, CCR, section 74112(k).

12 g. Respondent did not provide documentation to substantiate the data contained in its
13 2013/2014 SPFS for five years from the date of publication, as required by title 5, CCR, section
14 74112(m) and Code section 94929.7.

15 i. The documentation does not contain student name(s), address, phone number,
16 email address, program completed, program start date, scheduled completion date, as required by
17 title 5, CCR, section 74112(m)(2).

18 ii. The documentation does not contain the graduate's place of employment and
19 position, salary, hours, and a description of all attempts to contact each student or employer, as
20 required by title 5, CCR, section 74112(m)(3) and (6).

21 iii. The documentation does not contain the name, email address, phone number,
22 and position or title of the institution's representative who was primarily responsible for obtaining
23 the students' completion, placement, licensing, and salary and wage data, the date that the
24 information was gathered, and copies of notes, letters or emails through which the information
25 was requested and gathered, as required by title 5, CCR, section 74112(m)(9).

26 iv. The institution did not collect and maintain information to substantiate the
27 license examination passage rates identified in the SPFS and the number of students not available
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1 to graduate and those graduates not available for employment, as required by Code section
2 94929.7(a).

3 v. The institution did not provide a list of employment positions used to determine
4 the number of graduates employed in the field for purposes of calculating job placement rates for
5 each educational program, as required by Code section 94929.7(b).

6 h. Respondent did not provide documentation to substantiate the data contained in its
7 2013/2014 SPFS in an electronic format as required by Code section 94927(a)(2).

8 **ELEVENTH CAUSE FOR DISCIPLINE**

9 **(Retention of Advertising)**

10 68. Respondent is subject to disciplinary action under title 5, CCR, section 74140 for
11 failing to retain and make available for inspection by the Bureau investigators, the institution's
12 flyers, brochures, newspaper, and other print advertisements; scripts for, and audio and video
13 recordings of, broadcast advertisements; internet advertisements or content; and, scripts for
14 telephone solicitations, for a minimum of five years; as set forth herein and in paragraphs 47 - 56
15 above, which are incorporated herein as though set forth in full.

16 **TWELFTH CAUSE FOR DISCIPLINE**

17 **(Student Tuition Recovery Fund Assessment Reporting Form)**

18 69. Respondent is subject to disciplinary action under title 5, CCR, section 76130(b) for
19 failing to provide its Student Tuition Recovery Fund (STRF) Assessment Reporting form for the
20 third and fourth quarters of 2015, as set forth herein and in paragraphs 47 - 56 above, which are
21 incorporated herein as though set forth in full.

22 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

24 70. Respondent is subject to disciplinary action under title 5, CCR, section 76215 for
25 failing to include the required disclosures regarding the STRF, as set forth herein and in
26 paragraphs 47 - 56 above, which are incorporated herein as though set forth in full.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Recordkeeping Requirements Regarding Student Tuition Recovery Fund)**

3 71. Respondent is subject to disciplinary action under title 5, CCR, section 76140 for
4 failing to collect and maintain records of student information to substantiate the data reported on
5 the STRF Assessment Reporting Form and records of the students' eligibility under the Fund, and
6 for failing to maintain the data required under this section in an electronic format that is readily
7 available and open to inspection by the Bureau upon request, as set forth herein and in paragraphs
8 47 - 56 above, which are incorporated herein as though set forth in full.

9 **FIFTEENTH CAUSE FOR DISCIPLINE**

10 **(Failure to Prior Obtain Authorization to Substantive Change in Program)**

11 72. Respondent is subject to disciplinary action under Code sections 94893 and 94894(a)
12 for failing to obtain prior authorization to a change in educational objectives, as follows and as set
13 forth in paragraphs 47 - 56 above, which are incorporated herein as though set forth in full.
14 Bureau investigations found examinations in Vietnamese and Spanish and brochures in
15 Vietnamese in the school's records at the San Diego location. The Bureau's records do not show
16 that an application for a substantive change was received by the Bureau. An application for a
17 substantive change is required to add courses in a different language.

18 **SIXTEENTH CAUSE FOR DISCIPLINE**

19 **(Engaging In Prohibited Business Practices)**

20 73. Respondent is subject to disciplinary action under Code section 94897 for engaging in
21 prohibited business practices as set forth below and in paragraphs 47 - 56 above, which are
22 incorporated herein as though set forth in full:

23 a. Respondent made untrue or misleading statements related to a test score, grade or
24 record of grades, attendance record, and/or record indicating student completion, in violation of
25 Code section 94897(j)(3).

26 i. Respondent provided Proof of Training completion documents dated November
27 13, 2015 to the Board of Barbering and Cosmetology (BBC) for a student, A.M.A., that was not,
28 and has never been enrolled at the institution.

1 ii. Students reported that Respondent offered to sell them hours and
2 documentation of proof of hours for their State Board licensing examinations.

3 iii. Respondent required A.M., O.S. and U.C. to write a statement that they were
4 voluntarily withdrawing from school in order to receive documentation of proof of hours and
5 transcripts when A.M., O.S. and U.C. did not wish to withdraw.

6 iv. Respondent's website misstates the period to complete, the completion rates
7 and placement rates of students in the Cosmetology, Barbering, Nail Technician/Specialist,
8 Manicuring, Esthetician, Barber Crossover and Massage Therapy programs.

9 b. Respondent made untrue or misleading statements related to the student's eligibility
10 for student financial aid at the institution, in violation of in violation of Code section 94897(j)(2).

11 i. Respondent made representations regarding completion of high school and
12 possession of high school diplomas by students in or to obtain approval for financial aid when
13 there was no documentation of high school graduation.

14 **SEVENTEENTH CAUSE FOR DISCIPLINE**

15 **(Unscheduled Suspension of Classes)**

16 74. Respondent is subject to disciplinary action under Code section 94898(b) for making
17 an unscheduled suspension of any class, which was not caused by circumstances beyond the
18 institution's control as follows and as set forth in paragraphs 47 - 56 above, which are
19 incorporated herein as though set forth in full. Respondent submitted the school closure plan on
20 August 18, 2016. On August 16, 2016, Van offered to continuing Student P. and to expedite his
21 wife's hours for a fee.

22 **EIGHTEENTH CAUSE FOR DISCIPLINE**

23 **(Lack of Approval from BBC for Esthetician Program)**

24 75. Respondent is subject to disciplinary action under Code section 94899 for offering an
25 educational program in a profession, occupation, trade, or career field that requires licensure in
26 California, without approval from the appropriate state licensing agency to conduct that
27 educational program in order that a student who completes the educational program is eligible to
28 sit for any required licensure examination, as follows and as set forth in paragraphs 47 - 56 above,

1 which are incorporated herein as though set forth in full. Respondent offers a 600-hour
2 Cosmetician program that leads to licensure by the BBC, however the program is not included in
3 the institution's catalog as being approved by the BBC.

4 NINETEENTH CAUSE FOR DISCIPLINE

5 **(Failure to Sign, and/or Provide Student With Signed, Enrollment Agreement)**

6 76. Respondent is subject to disciplinary action under Code section 94902, subdivisions
7 (a), (b) and (c), for failing to have an enrollment agreement signed by the student and authorized
8 employee of the institution, for documenting that the student received the institution's catalog and
9 SPFS prior to signing the enrollment agreement, and for failing to document signed enrollment
10 agreements were provided to the student, as set forth below and in paragraphs 47 - 56 above,
11 which are incorporated herein as though set forth in full.

12 a. The student files of P.T., H.N., L.A., T.V., did not contain an enrollment agreement
13 that was signed by the student and an authorized employee of the institution.

14 b. Respondent did not maintain student files that showed each student received a SPFS
15 prior to signing the enrollment agreement. The SPFS contained in the student files were not
16 initialed, signed and dated by the student. The student files of M.N., T.V., F.F., L.N. and H.N.
17 did not contain documentation of a SPFS signed by the student.

18 TWENTIETH CAUSE FOR DISCIPLINE

19 **(Failure to Disclose Programs Exceeding Minimum for Licensure or Certification)**

20 77. Respondent is subject to disciplinary action under Code section 94905 for failing to
21 disclose that the institution's minimum course requirements exceed the minimum requirements
22 for state licensure and to list those courses that are not required for state licensure as set forth
23 below and in paragraphs 47 - 56 above, which are incorporated herein as though set forth in full:

24 a. Respondent's catalog for January 1, 2016 to December 31, 2016, includes an
25 Advanced Manicuring class consisting of 600 hours. The BBC requires applicants for licensure
26 to complete a manicuring program (Nail Care) of a minimum of 400 hours. Respondent's catalog
27 does not disclose that their manicuring program hours exceed the minimum required for state
28 license nor does it disclose the hours or courses that exceed the minimum hours.

1 b. Respondent's catalog for January 1, 2016 to December 31, 2016, includes a Massage
2 Therapist program consisting of 600 hours. The California Massage Therapy Council (CAMTC)
3 requires applicants for the Certified Massage Therapist Certificate to complete a 500-hour
4 Massage Therapist program. Respondent's catalog does not disclose that their Massage Therapist
5 program hours exceed the minimum required for state certification nor does it disclose the hours
6 or courses that exceed the minimum hours.

7 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

8 **(Language of Enrollment Agreement)**

9 78. Respondent is subject to disciplinary action under Code section 94906 for failing to
10 have the enrollment agreement in the language in which students were recruited as follows and as
11 set forth in paragraphs 47 - 56 above, which are incorporated herein as though set forth in full.
12 Review of the student files contains advertisements in Vietnamese and Spanish, however the
13 enrollment agreement, disclosures and required statements were not in Vietnamese or Spanish.
14 Further, Respondent did not submit a policy for providing students the enrollment agreement,
15 disclosures and statements in the language in which the students were recruited:

16 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Minimum Requirements for School Catalog)**

18 79. Respondent is subject to disciplinary action under Code section 94909 for failing to
19 comply with the minimum requirements for the school catalog as set forth below and in
20 paragraphs 47 - 56 above, which are incorporated herein as though set forth in full:

21 a. Respondent's catalog failed to contain the address or addresses where class sessions
22 will be held, as required by Code section 94909(a)(4). The catalog states the addresses of the
23 school's locations but does not state where the class sessions will be held.

24 b. Respondent's catalog failed to contain information regarding the faculty and their
25 qualifications, as required by Code section 94909(a)(7). The catalog lists the faculty members but
26 does not describe their qualifications.

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1 c. Respondent's catalog failed to contain the institution's policies regarding admissions
2 policies for home-schooled students and transferability of hours for massage therapy students, as
3 required by Code section 94909(a)(8)(A).

4 d. Respondent's catalog failed to clearly state the institution's refund policy as required
5 by Code section 94909(a)(8)(B). The catalog provided a hypothetical refund policy that based
6 upon a total tuition of \$10,725. However, in calculating the pro-rata refund, the institution used a
7 total tuition of \$10,000. Therefore, the catalog did not give a pro-rata refund example that is
8 consistent with the pro-rata refund policy. Also, the STRF fee used in the refund hypothetical is
9 incorrect; the current fee is \$0 per \$1,000 of institutional charges.

10 e. Respondent's catalog failed to contain the schedule of total charges for a period of
11 attendance and an estimated schedule of total charges for the entire educational program as
12 required by Code section 94909(a)(9). The catalog also states in the incorrect STRF fee.

13 f. Respondent's catalog contains a misleading loan statement in violation of Code
14 section 94909(a)(11) in that is specific only to Federal Direct Stafford Loans only, not to private
15 loans.

16 g. Respondent's catalog failed to contain a description of the student's rights and
17 responsibilities with respect to the Student Tuition Recovery Fund and the required disclosures
18 pursuant to Code section 94909(a)(14) and title 5, CCR, section 76215(a) and (b).

19 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

20 **(Failure to Document Student Receipt of SPFS)**

21 80. Respondent is subject to disciplinary action under Code section 94912 for failing to
22 maintain student files to show that each student received a SPFS prior to execution of an
23 enrollment agreement as follows and as set forth in paragraphs 47 - 56 above, which are
24 incorporated herein as though set forth in full. The SPFS contained in student files were not
25 initialed, signed and dated by the students.

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1 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Website Requirements)**

3 81. Respondent is subject to disciplinary action under Code section 94913 for failing to
4 comply with the following requirements for an institution's Internet Website as set forth below
5 and in paragraphs 47 - 56 above, which are incorporated herein as though set forth in full:

6 a. The institution's website, www.Vanbeautyschool.edu, does not contain the current
7 updated school catalog with corrections, as required by Code section 94913(a)(1).

8 b. The institution's website does not contain a School Performance Fact Sheet for each
9 educational program offered by the institution, as required by Code section 94913(a)(2).

10 c. The institution's website does not contain all student brochures offered by the
11 institution, as required by Code section 94913(a)(3).

12 d. The institution's website does not contain a link to the Bureau's Internet Web site, as
13 required by Code section 94913(a)(4).

14 e. The institution's website does not contain the institution's most recent annual report
15 submitted to the Bureau, as required by Code section 94913(a)(5).

16 f. The institution's website does not contain information concerning where students may
17 access the Bureau's Internet Web site anywhere the institution identifies itself as being approved
18 by the bureau, as required by Code section 94913(b).

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
21 Accusation, and that following the hearing, the Director of the Department of Consumer Affairs
22 issue a decision:

23 1. Revoking or suspending Approval to Operate No. 34483623 issued to Tramy Van to
24 operate Tramy Beauty School;


25 2. Ordering Tramy Van to pay the Bureau for Private Postsecondary Education the
26 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
27 Professions Code section 125.3 and Code section 94937(c); and,

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

DATED: 1/9/17


JOANNE WENZEL
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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