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

11
12 In the Matter of the Accusation Against:

Case No. 997919

13 **JAMES ALBERT NASSER, 60% Owner;**
14 **NABIL NASSER, 40% Owner, JAMES**
ALBERT SCHOOL OF COSMETOLOGY
15 1835 Newport Blvd., Suite A200
Costa Mesa, CA 92627
16 **Approval to Operate No. 3009551**

A C C U S A T I O N

17 **Branch School Code 3013941**
229 E. Orangethorpe Ave., #B
18 **Fullerton, CA 92832**

19 **Branch School Code 74722232**
9170 Foothill Blvd
20 **Rancho Cucamonga, CA 91730**

21 **Branch School Code 61581833**
24366 Swartz Drive
22 **Lake Forest, CA 92630**

23 **Branch School Code 18431265**
782 N. Main Street
24 **Corona, CA 92880**

25 Respondents.

26
27 Complainant alleges:

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PARTIES

1
2 1. Laura Metune (Complainant) brings this Accusation solely in her official capacity as
3 the Chief of the Bureau for Private Postsecondary Education, Department of Consumer Affairs
4 (hereinafter "Bureau.")

5 **Main Campus**

6 2. **Institution Code 3009551** - On or about July 17, 1995, the Bureau for Private
7 Postsecondary and Vocational Education¹ (hereinafter "BPPVE") issued James Albert Nasser,
8 60% owner, and Nabil Nasser, 40% owner, (Respondents) an Approval to Operate James Albert
9 School of Cosmetology. On June 13, 2011, the Bureau received an Application for Approval to
10 Operate an Accredited Institution (Application No. 23623) from the Respondents for James
11 Albert School of Cosmetology, Main Campus location, at 1835 Newport Blvd., Suite A-200,
12 Costa Mesa, CA 92677.

13 3. On or about September 2, 2011, the Bureau issued the Respondents an Approval to
14 Operate an Accredited Institution. The Approval to Operate included all programs offered by the
15 Institution on the most recent "Approved Programs List" at the approved locations on the
16 "Approved Branch/Satellite Location List." The Approval to Operate was in full force and effect
17 at all times relevant to the charges brought herein and will expire on September 30, 2013, unless
18 renewed.

19 **Branch Locations**

20 4. **School Code No. 3013941** - On or about January 3, 2001, the BPPVE issued to
21 James Albert Nasser, 60% owner, and Nabil Nasser, 40% owner, an Approval to Operate a
22 Branch Location at 2289 W. Ball Road, Anaheim, CA 92804. On June 30, 2011, the Bureau
23 received an Application for Change in Location (Application No. 23707) to 229 E. Orangethorpe
24 Ave., #B, in Fullerton, CA 92832. On or about November 4, 2011, the Bureau approved the
25 change of location.

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").

STATUTORY AND REGULATORY PROVISIONS

11. Section 94937 of the Education Code states:

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

...

(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....

12. Section 94900 of the Education Code 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.

13. Section 94926 of the Education Code states:

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

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

(b) If no teach-out plan 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 (c) If the institution is a participant in federal student financial aid
2 programs, it shall provide students information concerning these
3 programs and institutional closures.

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

5 14. Section 94927 of the Education Code states:

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

18 15. Section 94927.5 of the Education Code states:

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

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

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

28 (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).

16. Title 5, California Code of Regulations, section 71735 states:

(a) An institution shall have sufficient facilities and necessary
equipment to support the achievement of the educational objectives
of all of the courses and educational programs in which students are
enrolled. If an institution represents that the educational service will
fit or prepare a student for employment in a particular occupation or
as described in particular job titles, either of the following
conditions shall be met:

...

(b) An institution's facilities, including heating and cooling,
ventilation, lighting, classrooms, laboratories, and campus environs,
shall be well-maintained. The institution shall maintain all valid

1 permits required by any public agencies relating to the health and
2 safety of the institution's facilities and equipment on file, and such
3 permits shall be available to the Bureau upon request.

4
5
6 17. Title 5, California Code of Regulations, section 71920 states:

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

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

12 ...

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

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

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

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

24 (B) Credit awarded for prior experiential learning, including the
25 course title for which credit was awarded and the amount of credit;

26 (C) Credit for courses earned at other institutions;

27 ...

28 (8) A copy of documents relating to student financial aid that are
required to be maintained by law or by a loan guarantee agency;

(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;

18. Title 5, California Code of Regulations, section 71930 states:

(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.

(2) Notwithstanding (b)(1), the institution shall maintain records

1 relating to federal financial aid programs as provided by federal
law.

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

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

7 (2) For a record that is current, the institution maintains functioning
8 devices that can immediately reproduce exact, legible printed
9 copies of stored records. The devices shall be maintained in
10 reasonably close proximity to the stored records at the institution's
primary administrative location in California. For a record that is no
longer current, the institution shall be able to reproduce exact,
legible printed copies within two (2) business days.

11 ...

12 (4) Any person authorized by the Act or this chapter to inspect and
13 copy records shall be given immediate access to the document
14 reproduction devices for the purpose of inspecting and copying
stored records and shall, upon request, reimburse the institution for
the reasonable cost of using the institution's equipment and material
to make copies at a rate not to exceed ten cents (\$0.10) per page.

15 ...

16 (f) If an institution closes, the institution and its owners are jointly
17 and severally responsible to arrange at their expense for the storage
18 and safekeeping in California of all records required to be
maintained by the Act and this chapter for as long as those records
19 must be maintained. The repository of the records shall make these
records immediately available for inspection and copying, without
20 charge except as allowed under subdivision (c)(4) of this section,
during normal business hours by any entity authorized by law to
inspect and copy records.

21 19. Title 5, California Code of Regulations, section 74200 states:

22 Every institution shall notify the Bureau in writing at least 30 days
23 before the institution ceases to offer to the public any educational
program.

24 20. Title 5, California Code of Regulations, section 76240 states:

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

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

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

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

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

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

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

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

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

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

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

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

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

27 RESTITUTION

28 21. Section 94941, subdivision (d) of the Education Code states:

(d) If the Bureau finds that an institution's violation of this chapter
has caused damage or loss to a student or group of students, the
bureau shall order the institution to provide appropriate restitution
to that student or group of students.

COST RECOVERY

22. Section 125.3(a) of the Business and Professions Code provides, in pertinent part, that
the Director may request the administrative law judge to direct a licentiate found to have
committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable
costs of the investigation and enforcement of the case.

1 on February 3, 2012, the students of the Corona Branch (School Code No. 18431265) had not
2 been notified of Respondents' intent to close the schools. No provision was made for the students
3 to complete a comparable program at another institution at no additional charge to them prior to
4 the school's closing.

5 27. During the site visit, inspectors observed that the physical condition of the Corona
6 Branch location (School Code No. 18431265) was in different stages of completion. Several
7 ceiling tiles were missing, the electrical panel and electrical cables were exposed and there were
8 missing floor tiles.

9 28. On February 4, 2012, another inspector for the Bureau visited the Corona Branch
10 location (School Code No. 18431265). Student files were observed in the Financial Aid Office,
11 the freshmen classroom and the file room for students enrolled at campuses in Corona; Rancho
12 Cucamonga, Anaheim and Costa Mesa. The files were not in locked cabinets. In addition,
13 faculty unemployment files were also not in locked cabinets.

14 29. On February 7, 2012, Respondents notified the Bureau via telephone that the Main
15 Campus (Institution Code 3009551) in Costa Mesa closed on February 4, 2012. Bureau staff
16 learned that the following Branch locations closed as follows:

17 a. on January 17, 2012, Bureau staff learned from a student that the Fullerton Branch
18 Location (School Code No. 3013941) closed on January 16, 2012;

19 b. on February 6, 2012, Bureau staff learned from a student that the Rancho Cucamonga
20 Branch Location (School Code No. 74722232) closed on February 2, 2012;

21 c. on January 3, 2012, Bureau staff learned from a student that the Corona Branch
22 Location (School Code No. 18431265) on West 6th Street closed, but two instructors volunteered
23 their time to teach at the North Main Street location until its closure on February 3, 2012; and,

24 d. on February 6, 2012, Bureau staff learned from the Department of Education that the
25 Lake Forest Branch Location (School Code No. 61581833) closed on January 26, 2012.

26 30. Respondents did not, at least 30 days prior to closure, notify the Bureau in writing of
27 its intention to close the Main Campus or any of its Branch Locations and did not provide the
28 Bureau with a closure plan that includes the following:

- 1 a. the exact date and reason for closure;
- 2 b. the last date of instruction of each educational program;
- 3 c. a list of students enrolled at any time during the 60 days prior to closure;
- 4 d. a plan for providing teach-outs of educational programs or transfers or if no teach-out
5 is contemplated, arrangements for student refunds and/or refunds of federal student aid funds;
- 6 e. a plan for the disposition of student records;
- 7 f. a plan to notify students of their rights and options.

8 31. Respondents also failed to provide its students with information regarding the Student
9 Tuition Recovery Fund and federal student financial aid programs.

10 32. Students M.G., V.C. and T.D. were not provided with their student cosmetology kits,
11 which are duffle bags containing tools, brushes, rods, a doll head, and practice books, etc. that
12 were necessary for their educational program despite repeated requests for them. Additionally
13 beauty products were not adequately supplied to the students.

14 33. On or about October 4, 2011, Respondents were issued a citation by the Board of
15 Barbering and Cosmetology following an inspection of the Fullerton Branch Location on August
16 16, 2011. Respondents were cited for the following violations:

- 17 a. using a restroom for storage in violation of Business and Professions Code 7351;
- 18 b. having insufficient electrical equipment and dermal lights for giving instruction in
19 skin care and electrical facials in violation of title 16, California Code of Regulations, section
20 940(a);
- 21 c. having insufficient dryers to meet the minimum equipment requirement for
22 instruction, in violation of title 16, California Code of Regulations, section 940(e);
- 23 d. having insufficient manicure stations to meet the minimum equipment requirement
24 for instruction, in violation of title 16, California Code of Regulations, section 940(g);
- 25 e. failing to have an electrical cap to meet the minimum equipment requirement for
26 instruction, in violation of title 16, California Code of Regulations, section 940(h);

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1 f. failing to have cleaning logs for foot basins or tubs showing that the basins and tubs
2 were properly cleaned and disinfected after use by each patron, in violation of title 16, California
3 Code of Regulations, section 980.3;

4 g. failing to place soiled towels in a closed receptacle, in violation of title 16, California
5 Code of Regulations, section 987(a);

6 h. failing to label spray bottles and liquid containers to disclose their contents, in
7 violation of title 16, California Code of Regulations, section 988(b); and,

8 i. failure to have hot running water available, in violation of title 16, California Code of
9 Regulations, section 995(b).

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Failure to Notify Bureau of School Closure)**

12 34. Respondents are subject to disciplinary action under Education Code (hereinafter
13 "Code") section 94937(a) for violation of Code section 94926 and title 5, California Code of
14 Regulations sections 74200 and 76240, in that Respondents failed to advise the Bureau in writing,
15 at least 30 days prior to closing, of the closure of its campuses and failed to provide the Bureau
16 with a closure plan, as more fully set forth in paragraphs 24-31 above and incorporated by this
17 reference as though set forth in full herein.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Institution in Default)**

20 35. Respondents are subject to disciplinary action under Education Code section 94937(a)
21 for violation of Code section 94927 in that Respondents' campuses closed prior to completion of
22 the cosmetology program and are therefore in default on their enrollment agreements.
23 Respondents defaulted on their enrollment agreements without making a provision for the
24 students enrolled to complete a comparable educational program at another institution, as more
25 fully set forth in paragraphs 24-31 above and incorporated by this reference as though set forth in
26 full herein.

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28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Records to Bureau Prior to Closing)**

3 36. Respondents are subject to disciplinary action under Education Code section 94937(a)
4 for violation of Code section 94927.5 in that Respondents failed to provide the Bureau with
5 student records, including transcripts, or a plan for the retention of records and transcripts that
6 provides information as to how a student may obtain a transcript or any other information about
7 the student's coursework and degrees completed, as more fully set forth in paragraphs 24-31
8 above and incorporated by this reference as though set forth in full herein.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Insufficient Equipment to Support Educational Objectives)**

11 37. Respondents are subject to disciplinary action under Education Code section 94937(a)
12 for violation of title 5, California Code of Regulations, section 71735(a), in that Respondents
13 failed to have sufficient equipment to support the institution's objective in that students were not
14 provided their student kits containing tools and other equipment necessary to achieve their
15 educational objectives, cosmetology products were in short supply for the students' use and the
16 Fullerton Branch Campus failed to provide sufficient equipment for instruction, as more fully set
17 forth in paragraphs 27, 32-33 above and incorporated by this reference as though set forth in full
18 herein.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Facility Not Well Maintained)**

21 38. Respondents are subject to disciplinary action under Code section 94937(a) for
22 violation of title 5, California Code of Regulations, section 71735(b), as follows:

23 a. Respondents' Corona Branch Location (School Code No. 18431265) was not well-
24 maintained as there were missing ceiling tiles, an exposed electrical panel and electrical cables,
25 and missing floor tiles, as more fully set forth in paragraphs 27 above and incorporated by this
26 reference as though set forth in full herein; and,

27 b. Respondents' Fullerton Branch Location (School Code No. 3013941) failed to have
28 cleaning logs for foot basins and tubs showing that they had been properly cleaned and

1 disinfectant after use by each patron, failed to keep soiled towels in a closed receptacle, failed to
2 label spray bottles and liquid containers with their contents and failed to have hot running water
3 available, as more fully set forth in paragraph 33, subdivisions (f) – (i), above and incorporated by
4 this reference as though set forth in full herein.

5 SIXTH CAUSE FOR DISCIPLINE

6 (Failure to Produce Student's Records)

7 39. Respondents are subject to disciplinary action under Code section 94937(a) for
8 violation of title 5, California Code of Regulations, sections 71930(a) and (c)(4), in conjunction
9 with title 5, California Code of Regulations, section 71920, for failing to produce the student
10 records of A.V., a student, upon his request. The circumstances are as follows.

11 40. A.V. was a student at Respondents' Rancho Cucamonga Branch location (School
12 Code No. 74722232). He briefly transferred to the Corona Branch location (School Code No.
13 18431265), which at that time was located at 495 East Rincon, but then returned to the Rancho
14 Cucamonga Branch location. A.V. was concerned that the total hours paid by federal student aid
15 did not equal the actual hours he completed. His last day of attendance at Respondents'
16 institution was on or about October 21, 2011. On this day, he requested an accounting of his
17 completed training hours or proof of training. On October 28, 2011, A.V. was advised by
18 Respondents' Corporate Institution Representative, D.L., that A.V.'s request for records was too
19 late because "after 7 days from when a student drop[s], legally the institution does not have to
20 give proof of training and any time cards." A.V. was denied access to his student file and was not
21 provided with an accounting of his completed training hours. D.L. stated that A.V. owed
22 Respondents \$1,600 because his student loans did not cover all of his completed hours, however
23 despite A.V.'s requests, Respondents did not provide any documentation of funds owed and
24 training hours completed.

25 PRAYER

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

- 1 1. Revoking the Approval to Operate James Albert School of Cosmetology issued to
2 James Albert Nasser and Nabil Nasser, Owners:
- 3 a. Institution Code 3009551 (Costa Mesa Main Campus);
 - 4 b. School Code No. 3013941 (Fullerton Branch Campus);
 - 5 c. School Code No. 74722232 (Rancho Cucamonga Branch Campus);
 - 6 d. School Code No. 61581833 (Lake Forest Branch Campus); and,
 - 7 e. School Code No. 18431265 (Corona Branch Campus).
- 8 2. Ordering James Albert Nasser and Nabil Nasser, Owners, to pay the Bureau for
9 Private Postsecondary Education the reasonable costs of the investigation and enforcement of this
10 case, pursuant to Education Code section 94937, subdivision (c), and Business and Professions
11 Code section 125.3;
- 12 3. Ordering James Albert Nasser and Nabil Nasser, Owners, to pay students, who were
13 enrolled at James Albert School of Cosmetology during the 60-day period prior to the Main
14 Campus' or Branch location's closure, a full refund of all institutional charges pursuant to
15 Section 94927 of the Education Code;
- 16 4. Ordering James Albert Nasser and Nabil Nasser, Owners, to provide appropriate
17 restitution to its students and former students pursuant to Education Code section 94941,
18 subdivision (d); and,
- 19 5. Taking such other and further action as deemed necessary and proper.

20
21 DATED: May 18, 2012


LAURA METUNE
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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