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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 Statement of Issues  
Against:  
13 **THE BROTHERS & SISTERS**  
**BARBERCOSMO ACADEMY**  
14  
15 **Application for Approval to Operate an**  
**Accredited Institution**  
16  
17 Respondent.

Case No. 1002666

OAH No. 2017110825

**FOURTH AMENDED STATEMENT OF  
ISSUES**

18 Complainant alleges:

19 PARTIES

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

23 2. On or about December 23, 2016, the Bureau for Private Postsecondary Education  
24 ("Bureau") received an Application for Approval to Operate an Accredited Institution from  
25 Respondent The Brothers & Sisters BarberCosmo Academy ("Respondent"). The Bureau denied  
26 the application on April 12, 2017. On May 11, 2017, Respondent submitted to the Bureau a  
27 request for administrative hearing as well as further documents in support of its application.

28 ////

JURISDICTION

1  
2       3.     This Fourth Amended Statement of Issues is brought before the Director of the  
3 Department of Consumer Affairs (“Director”) for the Bureau, under the authority of the following  
4 laws. All section references are to the Education Code unless otherwise indicated.

5       4.     **Section 94885, subdivision (a)** provides, in part:

6           “(a) The bureau shall adopt by regulation minimum operating standards for an institution  
7 that shall reasonably ensure that all of the following occur:

8           “(1) The content of each educational program can achieve its stated objective.

9           ...

10          “(3) The facilities, instructional equipment, and materials are sufficient to enable students to  
11 achieve the educational program's goals.

12          ...

13          “(7) That, upon satisfactory completion of an educational program, the institution gives  
14 students a document signifying the degree or diploma awarded.

15          ...

16          “(9) The institution is maintained and operated in compliance with this chapter and all other  
17 applicable ordinances and laws.”

18       5.     **Section 94886** provides:

19           “Except as exempted in Article 4 (commencing with Section 94874) or in compliance with  
20 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,  
21 conduct, or do business as a private postsecondary educational institution in this state without  
22 obtaining an approval to operate under this chapter.”

23       6.     **Section 94887** provides:

24           “An approval to operate shall be granted only after an applicant has presented sufficient  
25 evidence to the bureau, and the bureau has independently verified the information provided by the  
26 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant

27       ////

28       ////

1 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application  
2 for an approval to operate if the application does not satisfy those standards.”

3 STATUTORY AND REGULATORY PROVISIONS

4 7. **Section 94909, subdivision (a)(10)** provides:

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

8 ...

9 “(10) A statement reporting whether the institution participates in federal and state financial  
10 aid programs, and if so, all consumer information that is required to be disclosed to the student  
11 pursuant to the applicable federal and state financial aid programs.

12 ....”

13 8. **Section 94913, subdivision (a)** provides:

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

16 ...

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

19 “(3) Student brochures offered by the institution.

20 ....”

21 9. **California Code of Regulations, title 5, section 71390, subdivision (b)** provides:

22 “(b) An applicant shall submit to the Bureau the form required by subdivision (a) of this  
23 section, a certified copy of its current verification of accreditation granted by its accrediting  
24 agency, and the appropriate application fee, as provided in Section 94930.5(a)(3) of the Code.”

25 10. **California Code of Regulations, title 5, section 71810** provides, in part:

26 “(b) The catalog shall contain the information prescribed by Section 94909 of the Code and  
27 all of the following:

28 ...

1 “(6) The institution’s policies and practices regarding any form of financial aid, including  
2 all consumer information which the institution is required to disclose to the student under any  
3 state or federal financial aid program;

4 . . . .”

5 11. **California Code of Regulations, title 5, section 74006, subdivisions (a) and (b)**  
6 provides:

7 “(a) An institution's annual fee is due within 30 days of the date on which the institution  
8 originally receives its approval to operate and each year thereafter on the anniversary of the date  
9 of the original approval.

10 “(b) An institution shall pay its annual fee in addition to any other applicable fees.

11 . . . .”

12

FIRST CAUSE FOR DENIAL OF APPLICATION

13

(Incomplete Application)  
(Educ. Code § 94887; and

14

Cal. Code Regs, title 5, §§ 71390, subd. (b) and 74006, sub. (a) and (b))

15

12. Respondent’s application is subject to denial because it fails to demonstrate that  
16 Respondent has the capacity to satisfy minimum operating standards. (Educ. Code § 94887; and  
17 Cal. Code Regs, title 5, §§ 71390, subd. (b) and 74006, sub. (a) and (b)). In particular:

18

a. Respondent failed to submit with its application a certified copy of its current  
19 verification of accreditation. (Cal. Code Regs, title 5, § 71390, subd. (b)).

20

b. Respondent failed to submit the Annual Fees for 2015 and 2017 plus penalties.  
21 (Cal. Code Regs, title 5, § 74006, subsd. (a) and (b)).

22

SECOND CAUSE FOR DENIAL OF APPLICATION

23

(Catalog)

24

(Educ. Code §§ 94887 and 94909, subd. (a)(10); and  
Cal. Code Regs, title 5, § 71810, subd. (b)(6))

25

13. Respondent’s application is subject to denial because it failed to offer a student  
26 catalog that satisfies minimum standards. (Educ. Code §§ 94887 and 94909, subd. (a)(10); and  
27 Cal. Code Regs, title 5, § 71810, subd. (b)(6)). In particular, Respondent’s catalog fails to include

28

1 compliant policies and practices regarding any form of financial aid. (Educ. Code § 94909, subd.  
2 (a)(10) and Cal. Code Regs, title 5, § 71810, subd. (b)(6)).

3 THIRD CAUSE FOR DENIAL OF APPLICATION

4 (Website)

5 (Educ. Code §§ 94887 and 94913, subds. (a)(2) and (a)(3))

6 14. Respondent's application is subject to denial because Respondent's institution's  
7 website fails to contain documents and/or information required by statute. (Educ. Code §§ 94887  
8 and 94913, subds. (a)(2) and (a)(3)). In particular:

9 a. Respondent's website fails to provide a School Performance Fact Sheet for each  
10 educational program offered by the institution. (Educ. Code § 94913, subd. (a)(2)).

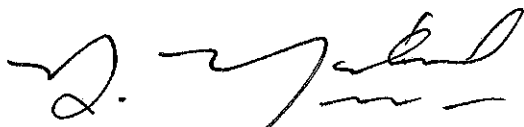
11 b. Respondent's website fails to provide student brochures offered by the  
12 institution, or otherwise confirm that Respondent does not offer student brochures. (Educ. Code §  
13 94913, subd. (a)(3)).

14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
16 Fourth Amended Statement of Issues, and that following the hearing, the Director of the  
17 Department of Consumer Affairs issue a decision:

- 18 1. Denying Respondent's Application for Approval to Operate an Accredited Institution;  
19 and  
20 2. Taking such other and further action as deemed necessary and proper.

21  
22 DATED: 6/5/18

23   
24 DR. MICHAEL MARION, JR.  
25 Bureau Chief  
26 Bureau for Private Postsecondary Education  
27 Department of Consumer Affairs  
28 State of California  
Complainant

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