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

10  
11 In the Matter of the Accusation Against:

Case No. 1001369

12 **B & H EDUCATION, INC., dba**  
13 **MARINELLO SCHOOLS OF BEAUTY;**  
**DR. RASHED ELYAS, CEO**

**A C C U S A T I O N**

14 Approval to Operate Institution Code  
15 Numbers 1904681 (6538 Greenleaf Ave.,  
Whittier, CA 90601); 81739886 (663 North  
16 Euclid St., Anaheim, CA 92801); 12682618  
(3737 Ming Ave., Bakersfield, CA 93309);  
(continued on pages 9-10)

17  
18 Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

22 1. Joanne Wenzel (Complainant) brings this Accusation, pursuant to Government  
23 Code section 11460.60, subdivisions (a) and (b), solely in her official capacity as the Chief of the  
24 Bureau for Private Postsecondary Education ("Bureau"), Department of Consumer Affairs.

25 2. The Bureau granted an approval to operate by means of accreditation to forty-five  
26 (45) Marinello Schools of Beauty, including Institution Code Numbers 1904681, 81739886,  
27 12682618, 1903091, 1902481, 0100341, 51315880, 73116841, 1904071, 55199095, 62178331,  
28 72482265, 0100681, 3302021, 3001361, 1906871, 3001231, 1905601, 64417848, 1906831,

1 33436333, 1906841, 3003171, 46614875, 99542484, 2800131, 3600541, 19103599, 88680704,  
2 1901571, 37954037, 1904421, 3404141, 3600391, 3701281, 3800631, 55199051, 4300211,  
3 17872833, 2700921, 1904411, 14960741, 83940807, 75914578, and 1904671. Obtaining  
4 approval by means of accreditation requires that the institutions' owner have accreditation  
5 through an accredited agency recognized by the United States Department of Education  
6 (USDOE). The listed Marinello Schools of Beauty are owned by B&H Education, Inc. (B&H), a  
7 California Corporation. B&H is directed and managed by its CEO, Dr. Rashed Elyas. Unless  
8 otherwise stated, the Marinello Schools of Beauty listed in the caption, B&H, and Dr. Rashed  
9 Elyas are referenced in this Accusation collectively as "Respondent."

### 10 JURISDICTION

11 3. This Accusation is brought before the Director of the Department of Consumer  
12 Affairs (Director) for the Bureau for Private Postsecondary Education, under the authority of the  
13 following laws.

14 4. Business and Professions Code section 118 states, in part:

15 . . .

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

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

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1 5. Business and Professions Code section 477 states:

2 "As used in this division:

3 "(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,'  
4 'examining committee,' 'program,' and 'agency.'

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

7 6. Government Code section 11460.60 states:

8 "(a) After issuing an emergency decision under this article for temporary, interim relief, the  
9 agency shall conduct an adjudicative proceeding under a formal, informal, or other applicable  
10 hearing procedure to resolve the underlying issues giving rise to the temporary, interim relief.

11 "(b) The agency shall commence an adjudicative proceeding under another procedure  
12 within 10 days after issuing an emergency decision under this article, notwithstanding the  
13 pendency of proceedings for judicial review of the emergency decision."

14 **STATUTORY & REGULATORY PROVISIONS**

15 7. Education Code section 94813 states:

16 "'Accredited' means an institution is accredited by an accrediting agency recognized by the  
17 United States Department of Education."

18 8. Education Code section 94814 states:

19 "'Accrediting agency' is an agency recognized by the United States Department of  
20 Education."

21 9. Education Code section 94926 states:

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

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

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

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

7           “(d) A plan for the disposition of student records.”

8           10. Code of Regulations, title 5, section 71745 states:

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

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

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

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

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

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

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

1 “(b) At an institution's request, the Bureau may consider the financial resources of a parent  
2 company if the parent company, as defined by section 94853 of the Code, meets and maintains all  
3 of the following provisions:

4 “(1) consents in writing to be sued in California;

5 “(2) consents in writing to be subject to the jurisdiction of the Bureau with respect to the  
6 institution's regulation under the Act and this Chapter;

7 “(3) designates and maintains an agent for service of process, consistent with section  
8 74190;

9 “(4) agrees in writing to pay any refund, claim, penalty, or judgment that the institution is  
10 obligated to pay; and

11 “(5) files financial reports, maintains financial records, and consents in writing to permit the  
12 inspection and copying of financial records to the same extent as is required of the institution.

13 “(c) An institution shall provide to the Bureau its most current financial statements upon  
14 request.”

#### 15 **COST RECOVERY**

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

#### 22 **FACTUAL BACKGROUND**

23 12. On November 25, 2015, the USDOE issued a letter informing Dr. Rashed Elyas that  
24 Respondent was being transferred from the “Advance” method of payment to the Heightened  
25 Cash Monitoring 2 (HCM2) method of payment effective November 24, 2015 for all locations.  
26 The USDOE took this action due to program reviews that were performed at seven (7) Marinello  
27 Schools of Beauty locations in October 2015, which identified concerns with the institution’s  
28 administrative capabilities. Under the HCM2 method of payment, Respondent was no longer able

1 to receive advance payment of Title IV funds from the USDOE for eligible students. Instead,  
2 Respondent may disburse Title IV funds to eligible students and wait for reimbursement from the  
3 USDOE after all expenditures are properly documented. According to the 2014 Annual Report  
4 submitted by Respondent to the Bureau, approximately 80% of its cash revenue is generated from  
5 the USDOE. By Respondent's own admission, it needs at least six (6) million dollars from the  
6 USDOE each month in order to continue to operate. Otherwise, it would have to close down all  
7 its locations. Without the regular disbursements from the USDOE, Respondent will not have  
8 sufficient funds to meet the financial requirements to operate.

9 13. On January 29, 2016, the Bureau issued Respondent a Notice of Emergency Decision,  
10 pursuant to California Code of Regulations, title 5, section 75150, subdivision (d) and  
11 Government Code section 11460.50. This Notice informed Respondent that, effective at the close  
12 of business on February 4, 2016, an Emergency Decision would be issued requiring that  
13 Respondent "cease enrollment of any new students in all programs" at its schools referenced by  
14 the institution code in the caption of this Accusation.<sup>1</sup>

15 14. On February 1, 2016, the USDOE issued a letter to Respondent that it has denied  
16 recertification of Respondent's eligibility to participate in the federal student aid programs.  
17 USDOE found that Respondent failed to meet its fiduciary responsibility to USDOE and its  
18 students to administer the financial aid programs with a high degree of care and diligence. As a  
19 result, their participation in the federal student aid programs will permanently end on February  
20 29, 2016.

21 15. On February 4, 2016, Respondent notified all its students via electronic mail that  
22 effective that same day, Respondent will cease operations due to the recent decision by the  
23 USDOE to disrupt funding and that all the campuses will be permanently closed effective  
24 immediately. Students were advised to take all their belongings with them that same day.

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26 <sup>1</sup> Pursuant to Code of Regulations, title 5, section 75150, subdivision (f), the Bureau offered  
27 Respondent the opportunity to state its opposition to the Emergency Decision at a hearing on February 3,  
28 2016 before the Director of the Department of Consumer Affairs. Respondent failed to appear at the  
hearing. Therefore, the Bureau's Emergency decision became effective on February 4, 2016.

1                                   **FIRST CAUSE FOR DISCIPLINE**  
2                                   **(Failure to Demonstrate Possession of Sufficient Financial Resources)**  
3                                   **(Cal. Code Regs., title 5, § 71745, subs. (a) and (b))**

4           16. Respondent has subjected its approvals to operate to disciplinary action for failing to  
5 demonstrate that its institutions meet the requirements for financial resources required by Code of  
6 Regulations, title 5, section 71745, subdivisions (a) and (b) in that Respondent failed to maintain  
7 sufficient finances to pay operating expenses. The circumstances are set forth in paragraphs 12  
8 through 15, above, which are incorporated herein by reference.

9                                   **SECOND CAUSE FOR DISCIPLINE**  
10                                  **(Failure to Provide 30 Days Notice)**  
11                                  **(Education Code § 94926)**

12           17. Respondent is subject to disciplinary action by failing to notify the Bureau in writing  
13 of its intention to close at least 30 days prior to closing, as required by Education Code section  
14 94926. Respondent notified the Bureau on February 4, 2016 that it was permanently closing all  
15 its campus locations and did so that same day. The circumstances are set forth in paragraphs 12  
16 through 15, above, which are incorporated herein by reference.

17                                   **PRAYER**

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

21           1. Sustaining the Bureau's Emergency Decision which orders Respondent to cease  
22 enrollment of any new students in all programs at institution code numbers 1904681, 81739886,  
23 12682618, 1903091, 1902481, 0100341, 51315880, 73116841, 1904071, 55199095, 62178331,  
24 72482265, 0100681, 3302021, 3001361, 1906871, 3001231, 1905601, 64417848, 1906831,  
25 33436333, 1906841, 3003171, 46614875, 99542484, 2800131, 3600541, 19103599, 88680704,  
1901571, 37954037, 1904421, 3404141, 3600391, 3701281, 3800631, 55199051, 4300211,  
17872833, 2700921, 1904411, 14960741, 83940807, 75914578, and 1904671;

26           2. Ordering Respondent to pay the Bureau for Private Postsecondary Education the  
27 reasonable costs of the investigation and enforcement of this case; and  
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3. Taking such other and further action as deemed necessary and proper.

DATED: 2/5/16



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

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1 **Approval to Operate Institution Code Numbers (continued from caption):**

2 1903091 (4210 East Gage Ave., Bell, CA 90201);

3 1902481 (200 North San Fernando Blvd., Burbank, CA 91502);

4 0100341 (2806 Castro Valley Blvd., Castro Valley, CA 94546);

5 51315880 (2848 Castro Valley Blvd., Castro Valley, CA 94546);

6 73116841 (2201 Pillsbury Rd., Ste. #160 and 170, Chico, CA 95926);

7 1904071 (1600 South Azusa Ave., Ste. #244, City of Industry, CA 91748);

8 55199095 (1849 Willow Pass Road, Ste. #400, Concord, CA 94520);

9 62178331 (841 Arnele Ave., El Cajon, CA 92020);

10 72482265 (3117 West Shaw Ave., Ste. #108, Fresno, CA 93711);

11 0100681 (22641 Main St., Hayward, CA 94541);

12 3302021 (2627 West Florida Ave., Ste. #100, Hemet, CA 92545);

13 3001361 (19022 Brookhurst St., Huntington Beach, CA 92646);

14 1906871 (240 South Market St., Inglewood, CA 90301);

15 3001231 (23635 El Toro Rd., Ste. #K, Lake Forest, CA 92630);

16 1905601 (2418 Lomita Blvd., Ste. #B, Lomita, CA 90717);

17 64417848 (2408 Lomita Blvd., Ste. #A, Lomita, CA 90717);

18 1906831 (1837 South La Cienega Blvd., Ste. #A, Los Angeles, CA 90035);

19 33436333 (1801 South La Cienega Blvd., Ste. #301, Los Angeles, CA 90035);

20 1906841 (1241 South Soto St., Ste. #101, Los Angeles, CA 90023);

21 3003171 (24741 Alessandro Blvd., Moreno Valley, CA 92553);

22 46614875 (24757 Alessandro Blvd., Units #1, 2, and 3, Moreno Valley, CA 92553);

23 99542484 (39449 Los Alamos Rd., Murrieta, CA 92563);

24 2800131 (2110 Main St., Napa, CA 94559);

25 3600541 (940 North Mountain Ave., Ontario, CA 91762);

26 19103599 (938 North Mountain Ave., Ontario, CA 91762);

27 88680704 (641 West Palmdale Blvd., Palmdale, CA 93551);

28 1901571 (8527 Alondra Blvd., Ste. #129, Paramount, CA 90723);

- 1 37954037 (1560 Market St., Redding, CA 96001);
- 2 1904421 (18442 Sherman Way, Reseda, CA 91335);
- 3 3404141 (5522 Garfield Ave., Sacramento, CA 95841);
- 4 3600391 (721 West 2<sup>nd</sup> St., Ste. #E, San Bernardino, CA 92410);
- 5 3701281 (7550 Miramar Rd., Ste. #400, San Diego, CA 92126-4217);
- 6 3800631 (1035 Market St., San Francisco, CA 94103);
- 7 55199051 (854 Fourth St., San Rafael, CA 94901);
- 8 4300211 (955 Monroe St., Santa Clara, CA 95050);
- 9 17872833 (1260 & 1270 Franklin Mall, Santa Clara, CA 95050);
- 10 2700921 (1760 Fremont Blvd., Ste. #F-2, Seaside, CA 93955);
- 11 1904411 (1125 East Los Angeles Ave., Simi Valley, CA 93065);
- 12 14960741 (445 West Weber Ave., Ste. #223, Stockton, CA 95203);
- 13 83940807 (14311 Bear Valley Rd., Ste. #101, Victorville, CA 92392);
- 14 75914578 (2355 South Mooney Blvd., Visalia, CA 93277); and
- 15 1904671 (166 Plaza Dr., West Covina, CA 91790).

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