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BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JAMES ALBERT NASSER, 60% Owner; NABIL NASSER, 40% Owner, JAMES ALBERT SCHOOL OF COSMETOLOGY** 1835 Newport Blvd., Suite A200 Costa Mesa, CA 92627 **Approval to Operate No. 3009551** **Branch School Code 3013941** **229 E. Orangethorpe Ave., #B** **Fullerton, CA 92832** **Branch School Code 74722232** **9170 Foothill Blvd** **Rancho Cucamonga, CA 91730** **Branch School Code 61581833** **24366 Swartz Drive** **Lake Forest, CA 92630** **Branch School Code 18431265** **782 N. Main Street** **Corona, CA 92880** Respondents.	Case No. 997919 **A C C U S A T I O N**

Complainant alleges:

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PARTIES

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

Main Campus

2. **Institution Code 3009551** - On or about July 17, 1995, the Bureau for Private Postsecondary and Vocational Education[1] (hereinafter "BPPVE") issued James Albert Nasser, 60% owner, and Nabil Nasser, 40% owner, (Respondents) an Approval to Operate James Albert School of Cosmetology. On June 13, 2011, the Bureau received an Application for Approval to Operate an Accredited Institution (Application No. 23623) from the Respondents for James Albert School of Cosmetology, Main Campus location, at 1835 Newport Blvd., Suite A-200, Costa Mesa, CA 92677.

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

Branch Locations

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

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

5. **School Code No. 74722232** - On or about April 13, 2007, the BPPVE issued James Albert Nasser, 60% owner, and Nabil Nasser, 40% owner, an Approval to Operate a Branch Location at 9170 Foothill Blvd., Rancho Cucamonga, CA 91730.

6. **School Code No. 61581833** – On or about May 5, 2010, the Bureau received an Application for Addition of a Separate Branch (Application No. 22356). On or about September 9, 2010, the Bureau issued James Albert Nasser, 60% owner, and Nabil Nasser, 40% owner, an Approval to Operate a Branch location at 24366 Swartz Drive, Lake Forrest, CA 92630.

7. **School Code No. 18431265** – On June 23, 2010, the Bureau received an Application for Addition of a Separate Branch (Application No. 22788). On June 24, 2011, the Bureau received an Application for Change of Location (Application No. 23677) from 1303 W. 6th Street, Corona, CA 92882 to 782 N. Main Street, Corona, CA 92880. On or about October 28, 2011, the Bureau issued James Albert Nasser, 60% owner, and Nabil Nasser, 40% owner, an Approval to Operate a Branch location at 782 N. Main Street, Corona, CA 92880.

JURISDICTION

8. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) under the authority of the following laws.

9. Section 94932 of the Education Code states:

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

10. Title 5, California Code of Regulations, section 75100 states in part:

> (a) The Bureau may suspend, revoke or place on probation with terms and conditions an approval to operate....

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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.

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

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

14. Section 94927 of the Education Code states:

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

15. Section 94927.5 of the Education Code states:

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

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

(2) If the institution is an accredited institution, a plan for the retention of 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).

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

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

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

(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:

. . .

(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;

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

(C) Credit for courses earned at other institutions;

. . .

(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

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

(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;

(2) For a record that is current, the institution maintains functioning devices that can immediately reproduce exact, legible printed copies of stored records. The devices shall be maintained in 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.

. . .

(4) Any person authorized by the Act or this chapter to inspect and copy records shall be given immediate access to the document 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.

. . .

(f) If an institution closes, the institution and its owners are jointly and severally responsible to arrange at their expense for the storage and safekeeping in California of all records required to be maintained by the Act and this chapter for as long as those records must be maintained. The repository of the records shall make these records immediately available for inspection and copying, without 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.

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

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

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

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

(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 plan. The closure plan shall include:

(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.

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

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

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

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

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

RESTITUTION

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.

23. Section 94937 of the Education Code section states in part:

. . .

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

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

FACTS

24. Respondents operated cosmetology schools in various locations and accepted tuition from students for completion of a cosmetology program that would prepare them to take the Board of Barbering and Cosmetology licensing examination.

25. On January 17, 2012, the National Accrediting Commission of Career Arts and Sciences notified the Bureau that the Corona Branch (School Code No. 18431265) located at 1303 West 6th Street in Corona closed on December 31, 2011. On January 18, 2012, the Corona Branch location opened at 782. N. Main Street.

26. On February 3, 2012, inspectors from the Bureau visited the Corona Branch location (School Code No. 18431265). The inspectors entered the school and introduced themselves to the students who led them to N.C., an instructor. N.C. stated that she did not know the school's status and that she was not being informed by the management about the school's status. N.C. explained that she and a night instructor, J.K., were working at the school as volunteers because all of the staff and instructors, including N.C. and J.K., had been laid off. N.C. stated that she and J.K. came to this location in Corona on January 18, 2012, after the location on West 6th Street closed. During their visit, the Bureau inspectors interviewed students. As of their interview on February 3, 2012, the students interviewed at the Corona Branch had not been advised of the school's closing. Similarly, when the Corona Branch's original location on West 6th Street closed, the students were not given prior notice of the closing. The West 6th Street location closed during the holiday break and when the students returned on January 3, 2012, they were locked out of the building. The students of the Corona Branch were advised that a new location was going to open. After a delay of a few weeks, students resumed instruction at the Corona Branch's new location at 782 N. Main Street on or about January 18, 2012. As of their interview

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

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

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

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

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

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

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

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

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

a. the exact date and reason for closure;

b. the last date of instruction of each educational program;

c. a list of students enrolled at any time during the 60 days prior to closure;

d. a plan for providing teach-outs of educational programs or transfers or if no teach-out is contemplated, arrangements for student refunds and/or refunds of federal student aid funds;

e. a plan for the disposition of student records;

f. a plan to notify students of their rights and options.

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

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

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

a. using a restroom for storage in violation of Business and Professions Code 7351;

b. having insufficient electrical equipment and dermal lights for giving instruction in skin care and electrical facials in violation of title 16, California Code of Regulations, section 940(a);

c. having insufficient dryers to meet the minimum equipment requirement for instruction, in violation of title 16, California Code of Regulations, section 940(e);

d. having insufficient manicure stations to meet the minimum equipment requirement for instruction, in violation of title 16, California Code of Regulations, section 940(g);

e. failing to have an electrical cap to meet the minimum equipment requirement for instruction, in violation of title 16, California Code of Regulations, section 940(h);

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

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

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

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

FIRST CAUSE FOR DISCIPLINE

(Failure to Notify Bureau of School Closure)

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

SECOND CAUSE FOR DISCIPLINE

(Institution in Default)

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

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THIRD CAUSE FOR DISCIPLINE

(Failure to Provide Records to Bureau Prior to Closing)

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

FOURTH CAUSE FOR DISCIPLINE

(Insufficient Equipment to Support Educational Objectives)

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

FIFTH CAUSE FOR DISCIPLINE

(Facility Not Well Maintained)

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

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

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

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

SIXTH CAUSE FOR DISCIPLINE

(Failure to Produce Student's Records)

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

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

PRAYER

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

1. Revoking the Approval to Operate James Albert School of Cosmetology issued to James Albert Nasser and Nabil Nasser, Owners:

a. Institution Code 3009551 (Costa Mesa Main Campus);

b. School Code No. 3013941 (Fullerton Branch Campus);

c. School Code No. 74722232 (Rancho Cucamonga Branch Campus);

d. School Code No. 61581833 (Lake Forest Branch Campus); and,

e. School Code No. 18431265 (Corona Branch Campus).

2. Ordering James Albert Nasser and Nabil Nasser, Owners, to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Education Code section 94937, subdivision (c), and Business and Professions Code section 125.3;

3. Ordering James Albert Nasser and Nabil Nasser, Owners, to pay students, who were enrolled at James Albert School of Cosmetology during the 60-day period prior to the Main Campus' or Branch location's closure, a full refund of all institutional charges pursuant to Section 94927 of the Education Code;

4. Ordering James Albert Nasser and Nabil Nasser, Owners, to provide appropriate restitution to its students and former students pursuant to Education Code section 94941, subdivision (d); and,

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

DATED: May 18, 2012

Laura Metune

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

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