Bureau for Private Postsecondary Education
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Henry Gaudet, Jr.
Moler Barber College
3815 Telegraph Avenue
Oakland, CA 94609

INSTITUTION CODE: 0101031
CITATION NUMBER: 1516007
CITATION ISSUANCE/SERVICE DATE: July 15, 2015
DUE DATE: August 14, 2015
FINE AMOUNT: $5,000.00
ORDER OF ABATEMENT INCLUDED: YES

Yvette Johnson issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Enforcement Chief of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to Henry Gaudet, Jr., Owner of Moler Barber College located at 3815 Telegraph Avenue, Oakland, CA 94609 pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violations described below.

VIOLATION

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating.
1.	**Violation:** 5, CCR 74110 (a-d) – Annual Report *"(a) The annual report required by section 94934 of the Code shall include the information required by section 94934 for all educational programs offered in the prior calendar year. (b) In addition to the information required by section 94934 provided under penalty of perjury, the institution shall have annual financial statements prepared for the institution's prior fiscal year and signed under penalty of perjury, and shall submit a hard copy under separate cover of such statements in conjunction with its annual report. The form, content and mode of preparation of financial statements shall comply with section 74115 of this Division. The Bureau may request that the institution immediately make available for inspection to a representative of the Bureau, these financial statements at the offices of the institution. (c) An institution shall file its annual report by September 1st. The Bureau may extend the period for filing if the institution demonstrates evidence of substantial need but in no case longer than 60 days. The institution shall not change the date of its filing its annual report because of a*

change in the fiscal year without the Bureau's approval. (d) The annual report shall be electronically filed by submitting the information required by section 94934 of the Code via the Bureau's website, electronically attaching, as directed, the School Performance Fact Sheet and the school catalog. An institution without the capability to submit the information electronically shall inform the Bureau not less than 45 days prior to the date the information is required by subdivision (c), and receive direction on alternative means of submission."

CEC 94934(a)(1-9) - Annual Report
"(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:
(1) The total number of students enrolled by level of degree or for a diploma.
(2) The number of degrees, by level, and diplomas awarded.
(3) The degree levels and diplomas offered.
(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.
(5) The school catalog, as required pursuant to Section 94909.
(6) The total charges for each educational program by period of attendance. (7) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.
(8) A statement indicating whether an accrediting agency has taken any final disciplinary action against the institution.
(9) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter."

On 4/7/14, the Bureau mailed a letter to the institution stating that the 2013 Annual Report must be submitted beginning 7/1/14 and no later than 9/1/14. On 11/4/14, the Bureau mailed a second letter to the institution stating that the Bureau had not received the required 2013 Annual Report by the 9/1/14 deadline. To date, the institution has failed to file its 2013 Annual Report.

Order of Abatement:
The Bureau orders the institution to submit its annual report in accordance with 5, CCR 74110 (a-d) and CEC 94934. The option to submit the annual report via the Bureau website has expired. Please submit a CD or flash drive* containing the annual report with the required information.

Assessment of Fine
The fine for this violation is $5,000.00

*No paper copies will be accepted, except the financial statements and disciplinary actions by accrediting agencies.

TOTAL ADMINISTRATIVE FINE DUE: $5,000.00

ASSESSMENT OF A FINE

In accordance with CEC Section 94936; and 5, CCR Sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **$5,000.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

ORDER OF ABATEMENT

In accordance with the provisions of CEC Section 94936 and 5, CCR Section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

BACKGROUND

In accordance with CEC Section 94934 and 5, CCR Section 74110 (c) an institution shall file its annual report by September 1st of every year. To date, the Bureau has not received an annual report for the 2013 calendar year from Moler Barber College, institution Code 0101031.

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **August 14, 2015**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **July 15, 2015.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **August 14, 2015.** Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Jody Wright, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Jody Wright, Enforcement Analyst, at 916-431-6940 or Jody.Wright@dca.ca.gov.

Yvette Johnson

Yvette Johnson
Enforcement Chief

July 15, 2015
Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First Class Mail