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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
14 **THE BROTHERS & SISTERS**
BARBERCOSMO ACADEMY
15
16 **Application for Approval to Operate an**
Accredited Institution
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.

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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 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)).

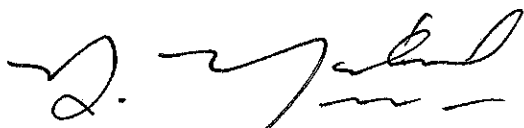
11 b. Respondent's website fails to provide student brochures offered by the
12 institution, or otherwise confirm that Respondent does not offer student brochures. (Educ. Code §
13 94913, subd. (a)(3)).

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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