

1 ROB BONTA
Attorney General of California
2 CARL W. SONNE
Senior Assistant Attorney General
3 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9435
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

13
14 In the Matter of the Petition to Revoke
Probation Against:

15 **AMERICAN BEAUTY INSTITUTE LLC,**
16 **DBA AMERICAN BEAUTY INSTITUTE**
17 **4625 Convoy Street, Ste. A**
San Diego, CA 92111

18 **Approval to Operate an Institution Non-**
19 **Accredited Institution Code No. 81663192**

20 Respondent.

Case No. 1003292

PETITION TO REVOKE PROBATION

21
22 **PARTIES**

23 1. Deborah Cochrane (Complainant) brings this Petition to Revoke Probation solely in
24 her official capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau),
25 Department of Consumer Affairs.

26 2. On or about October 28, 2015, the Bureau issued Approval to Operate an Institution
27 Non-Accredited Institution Code Number 81663192 to American Beauty Institute LLC, dba
28 American Beauty Institute (Respondent). Respondent is approved to offer educational programs

1 in Barbering (1,500-hour and 1000-hour programs), Cosmetology (1,600-hour and 1,000-hour
2 programs), Esthetician (600 hours), Manicurist (400 hours) and Massage Therapy (600-hour
3 program). The Approval to Operate an Institution Non-Accredited expired on October 27, 2020,
4 however Respondent timely submitted a renewal application, which is currently pending.
5 Therefore, the institution maintains its approval to operate and to offer the educational programs,
6 described above, as of the filing of this Petition to Revoke Probation.

7 3. In a disciplinary action titled "*In the Matter of the Accusation Against American*
8 *Beauty Institute LLC; dba American Beauty Institute*," Case No. 1003292 (Accusation Case No.
9 1003292), the Bureau issued a Decision and Order effective August 15, 2019, in which
10 Respondent's Approval to Operate an Institution Non-Accredited (Approval to Operate) was
11 revoked. However, the revocation was stayed and Respondent's Approval to Operate was placed
12 on probation for three (3) years with certain terms and conditions. A copy of that Decision and
13 Order is attached as Exhibit A and is incorporated by reference.

14 JURISDICTION

15 4. This Petition to Revoke Probation is brought before the Director of the Department of
16 Consumer Affairs (Director) for the Bureau under Probation Term and Condition Number 12 of
17 the Decision and Order. That term and condition states:

18 **12. Violation of Probation.** If Respondent violates probation in any
19 respect, the Bureau, after giving respondent notice and opportunity to be heard, may
20 revoke probation and carry out the disciplinary order which was stayed. If an
21 Accusation or a Petition to Revoke Probation is filed against respondent during
22 probation, the Bureau shall have continuing jurisdiction until the matter is final, and
23 the period of probation shall be extended, and respondent shall comply with all
24 probation conditions, until the matter is final. ...

25 STATUTORY AND REGULATORY PROVISIONS

26 5. Section 94932 of the Education Code (Code) states:

27 The bureau shall determine an institution's compliance with the
28 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.

1 6. Section 94934.5 of the Code states in part:

2 (a) An institution with an approval to operate that knows that it is being
3 investigated by an oversight entity other than the bureau shall report that
4 investigation, including the nature of that investigation, to the bureau within 30 days
5 of the institution's first knowledge of the investigation. An institution with an
6 approval to operate that is the subject of a judgment by, a regulatory action by,
increased oversight or monitoring by, or a settlement with, any oversight entity other
than the bureau shall report it to the bureau within 30 days. Failure to comply with
this section may subject the institution to an administrative citation pursuant to
Section 94936.

7 (b) For the purposes of this section, “investigation” means any inquiry into
8 possible violations of any applicable laws or accreditation standards.

9 (c) For the purposes of this section, “oversight entity” means all of the
10 following:

11 ...

12 (3) Any regulator that approves the operation of the institution.

13 ...

14 (6) Any state professional licensing entity that exercises any programmatic
or institutional approval over the institution.

15 7. Title 5, California Code of Regulations, section 71745 (Regulation 71745) states in
16 part:

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

19 ...

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

21 ...

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

...

1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Obey All Laws – Failure to Report Licensing Agency Investigation)**

3 8. At all times after the effective date of Respondent's probation, Condition 1 stated:

4 **1. Obey All Laws.** Respondent shall obey all federal, state and local laws
5 and regulations governing the operation of a private postsecondary educational
6 institution in California. Respondent shall submit, in writing, a full detailed account
of any and all violations of the law to the Bureau within five (5) days of discovery. ...

7 9. Respondent's probation is subject to revocation because it failed to comply with
8 Probation Condition 1, in conjunction with Code section 94934.5, in that Respondent failed to
9 report that it was being investigated by the Board of Barbering and Cosmetology (BBC). The
10 facts and circumstances regarding this violation are as follows.

11 10. On or about March 10, 2022, BBC conducted a Directed School Inspection of
12 Respondent, during which violations were found. Respondent submitted a First Quarterly Report
13 for the period January 1, 2022 through March 31, 2022, which was received by the Bureau on
14 April 4, 2022, that did not report BBC's investigation of the school. Respondent submitted a
15 Second Quarterly Report for the period April 1, 2022 through June 30, 2022, received by the
16 Bureau on July 10, 2022. The Second Quarterly Report also did not report BBC's investigation
17 of the school. Respondent failed to report BBC's investigation of the school to the Bureau in
18 violation of Term 1 of its Probation.

19 **SECOND CAUSE TO REVOKE PROBATION**

20 **(Obey All Laws – Financial Resources)**

21 11. Respondent's probation is subject to revocation because it failed to comply with
22 Probation Condition 1, referenced above, in conjunction with Regulation 71745, subdivisions
23 (a)(3) and (a)(6), in that Respondent failed to maintain minimum operating standards by failing to
24 maintain a ratio of current assets to current liabilities of 1.25 to 1.00, or greater, at the end of the
25 most recent fiscal year. The facts and circumstances regarding this violation are as follows.

26 12. On May 13, 2022, the Bureau and investigators from the Division of Investigation
27 (DOI) conducted a joint investigation and unannounced compliance inspection of Respondent
28 school. During the inspection, Bureau inspectors reviewed the school's financials for the period

1 January 1, 2021 through November 30, 2021. The school's ratio of current assets to current
2 liabilities was 0.88 to 1.00 instead of the minimum ratio of 1.25 to 1.00, in violation of Term 1 of
3 Respondent's probation.

4 **THIRD CAUSE TO REVOKE PROBATION**

5 **(Failure to Notify Prospective and/or Current Students)**

6 13. At all times after the effective date of Respondent's probation, Condition 5 stated:

7 **5. Notification to Prospective Students.** When currently soliciting or
8 enrolling (or re-enrolling) a student for any program, Respondent shall provide
9 notification of this action to each current or prospective student prior to accepting
10 their enrollment, and to those students who were enrolled at the time of the conduct
11 that is the subject of this action as directed by the Bureau. This notification shall
12 include a copy of the Accusation, Statement of Issues, Stipulated Settlement, or
13 Disciplinary Decision (whichever applies).

14 14. Respondent's probation is subject to revocation because it failed to comply with
15 Probation Condition 5, referenced above. The facts and circumstances regarding this violation
16 are as follows.

17 15. During the joint investigation and unannounced compliance inspection conducted on
18 May 13, 2022, a DOI investigator obtained paperwork provided to prospective students. The
19 paperwork consisted of an enrollment agreement, school policies and a payment ledger. A copy
20 of Disciplinary Decision in Accusation Case No. 1003292 was not included in the packet
21 provided to prospective students. In addition, interviews of current students Y.H. and O.M.
22 revealed they were not notified of Respondent's probationary status. As such, Respondent is in
23 violation of Term 5 of its probation.

24 **FOURTH CAUSE TO REVOKE PROBATION**

25 **(Failure to Comply With the Bureau's Probation Program)**

26 16. At all times after the effective date of Respondent's probation, Condition 2 stated:

27 **2. Compliance with Probation and Quarterly Reporting.** Respondent shall
28 fully comply with the terms and conditions of probation established by the Bureau and
29 shall cooperate with representatives of the Bureau in its monitoring and investigation of
30 the respondent's compliance with probation. Respondent, within ten (10) days of
31 completion of the quarter, shall submit quarterly written reports to the Bureau on a
32 Quarterly Report of Compliance form obtained from the Bureau.

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