

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

In the Matter of the Accusation/Petition to Revoke Probation Against:

BICH NGOC BEAUTY COLLEGE, INC.

dba DIAMOND BEAUTY COLLEGE

10301 Garvey Avenue, #200

South El Monte, CA 91733

Approval to Operate an Accredited Institution Code No. 36348756

Respondents.

Case No. 997438

OAH No. 2019100726

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Director of the Department of Consumer Affairs as the Decision in the above entitled matter.

The Decision shall become effective July 10, 2020.

DATED: June 4, 2020

“Original Signature on File”

RYAN MARCROFT

Deputy Director, Legal Affairs

Department of Consumer Affairs

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

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

15 **BICH NGOC BEAUTY COLLEGE, INC.,**
16 **DBA DIAMOND BEAUTY COLLEGE**
10301 Garvey Avenue, #200
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17 **Approval to Operate an Accredited**
18 **Institution No. 36348756**

19 Respondent.

Case No. 997438

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20 **STIPULATED SETTLEMENT AND**
21 **DISCIPLINARY ORDER**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Dr. Michael Marion, Jr. (Complainant) is the Chief of the Bureau for Private
25 Postsecondary Education (Bureau). He brought this action solely in his official capacity and is
26 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
27 Stephanie J. Lee, Deputy Attorney General.

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1 **ADVISEMENT AND WAIVERS**

2 8. Respondent has carefully read, fully discussed with counsel, and understands the
3 charges and allegations in the First Amended Accusation/Petition to Revoke Probation No.
4 997438. Respondent has also carefully read, fully discussed with counsel, and understands the
5 effects of this Stipulated Settlement and Disciplinary Order.

6 9. Respondent is fully aware of its legal rights in this matter, including the right to a
7 hearing on the charges and allegations in the First Amended Accusation/Petition to Revoke
8 Probation; the right to confront and cross-examine the witnesses against them; the right to present
9 evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the
10 attendance of witnesses and the production of documents; the right to reconsideration and court
11 review of an adverse decision; and all other rights accorded by the California Administrative
12 Procedure Act and other applicable laws.

13 10. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
14 every right set forth above.

15 **CULPABILITY**

16 11. Respondent admits the truth of each and every charge and allegation in First
17 Amended Accusation/Petition to Revoke Probation No. 997438.

18 12. Respondent agrees that its Approval to Operate an Accredited Institution is subject to
19 discipline and they agree to be bound by the Director's probationary terms as set forth in the
20 Disciplinary Order below.

21 **CONTINGENCY**

22 13. This stipulation shall be subject to approval by the Director of the Department of
23 Consumer Affairs or the Director's designee. Respondent understands and agrees that counsel for
24 Complainant and the staff of the Bureau for Private Postsecondary Education may communicate
25 directly with the Director and staff of the Department of Consumer Affairs regarding this
26 stipulation and settlement, without notice to or participation by Respondent or its counsel. By
27 signing the stipulation, Respondent understands and agrees that they may not withdraw its
28 agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon

1 it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated
2 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
3 be inadmissible in any legal action between the parties, and the Director shall not be disqualified
4 from further action by having considered this matter.

5 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
6 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
7 signatures thereto, shall have the same force and effect as the originals.

8 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
9 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
10 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
11 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
12 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
13 writing executed by an authorized representative of each of the parties.

14 16. In consideration of the foregoing admissions and stipulations, the parties agree that
15 the Director may, without further notice or formal proceeding, issue and enter the following
16 Disciplinary Order:

17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Approval to Operate an Accredited Institution No.
19 36348756, issued to Respondent Diamond Beauty College, is revoked. However, the revocation
20 is stayed and the previous three-year probationary order in Case No. 997438 shall be extended for
21 a period of four (4) additional years from the effective date of this decision. All previously
22 ordered probation terms and conditions as set forth in the original Decision and Order for Case
23 No. 997438, adopted by the Bureau on April 12, 2016, remain in effect and are as follows:

24 1. **OBEY ALL LAWS** -- Respondent shall obey all federal, state and local laws and
25 regulations governing the operation of a private postsecondary educational institution in
26 California. Respondent shall submit, in writing, a full detailed account of any and all violations of
27 the law to the Bureau for Private Postsecondary Education ("Bureau") within five (5) days of
28 discovery.

1 Criminal Court Order: If respondent is under criminal court orders, including probation or
2 parole, and the order is violated, this shall be deemed a violation of these probation conditions,
3 and may result in the filing of an Accusation and/or Petition to Revoke Probation.

4 **2. COMPLIANCE WITH PROBATION AND QUARTERLY REPORTING --**

5 Respondent shall fully comply with the terms and conditions of probation established by the
6 Bureau and shall cooperate with representatives of the Bureau in its monitoring and investigation
7 of the respondent's compliance with probation. Respondent, within ten (10) days of completion of
8 the quarter, shall submit quarterly written reports to the Bureau.

9 **3. PERSONAL APPEARANCES --** Upon reasonable notice by the Bureau, respondent
10 shall report to and make personal appearances at times and locations as the Bureau may direct.

11 **4. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S) --**

12 Respondent shall notify the Bureau, in writing, within five (5) days of a change of name, title,
13 physical home address, email address, or telephone number of each person, as defined in section
14 94855 of the Code, who owns or controls 25% or more of the stock or an interest in of the
15 institution and, to the extent applicable, each general partner, officer, corporate director, corporate
16 member or any other person who exercises substantial control over the institution's management
17 or policies.

18 **5. NOTIFICATION TO PROSPECTIVE STUDENTS --** When currently soliciting

19 or enrolling (or re-enrolling) a student for any program, respondent shall provide notification of
20 this action to each current or prospective student prior to accepting their enrollment, and to those
21 students who were enrolled at the time of the conduct that is the subject of this action as directed
22 by the Bureau. This notification shall be in the form attached hereto as Exhibit B.

23 **6. STUDENT ROSTER --** Within 15 days of the effective date of this Decision, and

24 with the Quarterly Reports thereafter, provide to the Bureau the names, addresses, phone
25 numbers, email addresses, and the programs in which they are or were enrolled, of all persons
26 who are currently or were students of the institution within 60 days prior to the effective date of
27 the Decision, and those students who were enrolled at the time of the conduct that is the subject of
28 this action.

1 **7. INSTRUCTION REQUIREMENTS AND LIMITATIONS** -- During probation,
2 Respondent shall provide approved instruction in the State of California. If respondent is not
3 providing instruction, the period of probation shall be tolled during that time.

4 **8. RECORD STORAGE** -- Within 5 days of the effective date of this Decision,
5 provide the Bureau with the location of the repository for all records as they are required to be
6 maintained pursuant to Title 5, California Code of Regulations, section 71930.

7 **9. MAINTENANCE OF CURRENT AND ACTIVE APPROVAL TO OPERATE -**
8 - Respondent shall, at all times while on probation, maintain a current and active approval to
9 operate with the Bureau including any period during which approval is suspended or probation is
10 tolled.

11 **10. COMPLY WITH CITATIONS** -- Respondent shall comply with all final orders
12 resulting from citations issued by the Bureau.

13 **11. COST RECOVERY** -- Respondent shall pay to the Bureau its costs of investigation
14 and enforcement in the amount of \$4,888.00 no later than one year before the termination of
15 probation. Such costs shall be payable to the Bureau and are to be paid regardless of whether the
16 probation is tolled. Failure to pay such costs shall be considered a violation of probation.

17 Except as provided above, the Bureau shall not renew or reinstate the approval to operate of
18 any respondent who has failed to pay all the costs as directed in a Decision.

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

25 **13. FUTURE APPROVALS TO OPERATE** -- If respondent subsequently obtains
26 other approvals to operate during the course of this probationary order, this Decision shall remain
27 in full force and effect until the probationary period is successfully terminated. Future approvals
28

1 shall not be granted, however, unless respondent is currently in compliance with all of the terms
2 and conditions of probation.

3 **14. COMPLY WITH ALL ACCREDITATION STANDARDS** -- As applicable,
4 respondent shall comply with all standards set by its accreditor in order to maintain its
5 accreditation. Respondent shall submit to the Bureau, in writing, a full detailed account of any
6 and all actions taken by any accrediting agency against respondent regarding any institution
7 operated by respondent, including an order to show cause, or conditions or restrictions placed on
8 accreditation, within five (5) days of occurrence.

9 **15. COMPLETION OF PROBATION** -- Upon successful completion of probation,
10 respondent's approval to operate will be fully restored.

11 **16. ABILITY TO BENEFIT TESTING** -- Throughout the probationary period,
12 Respondent shall provide to the Bureau the following documents and information related to
13 students enrolled through Ability to Benefit ("ATB") testing:

- 14 • A list of all current students who were enrolled by using the ATB exam;
- 15 • Quarterly progress updates of any students enrolled using the ATB exam;
- 16 • Copies of any contracts between Respondent and ATB exam proctors and/or
17 administrators of any kind;
- 18 • Copies of ATB exam scores and examination timeframe printouts for all current
19 students who were enrolled by using the ATB exam.

20
21 A copy of the original Decision and Order for Case No. 997438 is attached as Exhibit C and
22 incorporated herein by reference. Additionally, Respondent must comply with the following
23 additional terms and conditions on probation:

24 **Cost Recovery**

25 Pursuant to the previously ordered Probation Condition 11 (Cost Recovery) and Business
26 and Professions Code section 125.3, Respondent has previously paid the \$4,888.00 from the
27 original Decision and Order for Case No. 997438, adopted by the Bureau on April 12, 2016.
28 Respondent shall additionally pay to the Bureau its costs of investigation and enforcement related

1 to First Amended Accusation/Petition to Revoke Probation No. 997438 in the additional amount
2 of \$15,707.18. Respondent shall be permitted to pay these costs in a payment plan approved by
3 the Bureau, with payments to be completed no later than one (1) year before the termination of
4 probation. Such costs shall be payable to the Bureau and are to be paid regardless of whether the
5 probation is tolled. Failure to pay the full costs shall be considered a violation of probation.

6 **17. COMPLETE YEARLY COMPLIANCE AND SCHOOL PERFORMANCE**
7 **FACT SHEET WORKSHOPS.**

8 Respondent, at their own expense, shall enroll their owner, Chief Executive Officer, Chief
9 Operating Officer, Chief Academic Officer, and Financial Aid Director in and have the
10 aforementioned individuals successfully complete a Compliance Workshop hosted by the Bureau,
11 once a year until the completion of Respondent's probation.

12 Respondent, at their own expense, shall enroll their owner, Chief Executive Officer, Chief
13 Operating Officer, and any employee(s) responsible for the maintenance and completion of the
14 School Performance Fact Sheets and Annual Reports in and have the aforementioned individuals
15 successfully complete a School Performance Fact Sheet Workshop hosted by the Bureau, once a
16 year until the completion of Respondent's probation.

17 Within thirty (30) days of completion of each workshop, Respondent shall submit to the
18 Bureau the certificates of completion for the above required workshop courses.

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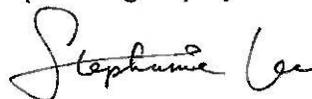
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of the Department of Consumer Affairs.

DATED: Feb. 24, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



STEPHANIE J. LEE
Deputy Attorney General
Attorneys for Complainant

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