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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 In the Matter of the Accusation Against:

Case No. 997438

13 **DIAMOND BEAUTY COLLEGE, TONY**
14 **DO, OWNER**
10301 Garvey Avenue, #200
South El Monte, CA 91733

A C C U S A T I O N

15 **Approval to Operate an Institution No.**
16 **36348756**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Joanne Wenzel ("Complainant") brings this Accusation solely in her official capacity
21 as the Chief of the Bureau for Private Postsecondary Education, Department of Consumer Affairs
22 ("Bureau").

23 2. On or about January 18, 2005, the former Bureau for Private Postsecondary and
24 Vocational Education¹ ("BPPVE") issued a temporary Approval to Operate an Institution Number

25 _____
26 ¹ The former Bureau for Private Post Secondary and Vocational Education sun-setted on July 1,
27 2007. Between July 1, 2007 and December 31, 2009, there was no regulatory body with oversight
28 of private postsecondary schools. On October 1, 2009, the California Private Postsecondary
Education Act of 2009 ("Act") was signed into law. (Educ. Code §§ 94800 *et seq.*) The Act
became operative on January 1, 2010 and established the Bureau in its current form.

1 36348765 to Diamond Beauty College with Tony Do ("Respondent") as sole owner. On or about
2 March 29, 2007, the BPPVE issued a Full Approval to Operate to Respondent. On or about
3 January 13, 2012, the Full Approval to Operate expired and has not been renewed. On or about
4 May 8, 2012, the Bureau issued an Accredited Institutional Approval, which was in full force and
5 effect at all times alleged herein and will expire on January 31, 2018, unless renewed.

6 **JURISDICTION**

7 3. This Accusation is brought before the Director of the Department of Consumer
8 Affairs ("Director") for the Bureau, under the authority of the following laws. All section
9 references are to the Education Code² unless otherwise indicated.

10 4. Section 118, subdivision (b) of the Business and Professions Code provides that the
11 suspension, expiration, surrender, cancellation of a license shall not deprive the Director of
12 jurisdiction to proceed with a disciplinary action during the period within which the license may
13 be renewed, restored, reissued or reinstated.

14 5. Section 94932 of the Code states:

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

23 6. Section 94933 of the Code states:

24 "The bureau shall provide an institution with the opportunity to remedy noncompliance,
25 impose fines, place the institution on probation, or suspend or revoke the institution's approval to

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27 ² The California Private Postsecondary Education Act of 2009 was recently amended, effective
28 January 1, 2015. See Senate Bill No. 1247. This Accusation is based on the amended version of
the Act.

1 operate, in accordance with this article, as it deems appropriate based on the severity of an
2 institution's violations of this chapter, and the harm caused to students."

3 7. Section 94937 of the Code states, in pertinent part:

4 "(a) As a consequence of an investigation, and upon a finding that an institution has
5 committed a violation, the bureau may place an institution on probation or may suspend or revoke
6 an institution's approval to operate for:

7 "(1) Obtaining an approval to operate by fraud.

8 "(2) A material violation or repeated violations of this chapter or regulations adopted
9 pursuant to this chapter that have resulted in harm to students. For purposes of this
10 paragraph, "material violation" includes, but is not limited to, misrepresentation, fraud in
11 the inducement of a contract, and false or misleading claims or advertising, upon which a
12 student reasonably relied in executing an enrollment agreement and that resulted in harm to
13 the student."

14 . . .

15 8. California Code of Regulations, title 5, section 75100:

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

18 "(b) 'Material violation' as used in section 94937 of the Code includes committing any act
19 that would be grounds for denial under section 480 of the Business and Professions Code.

20 "(c) The proceedings under this section shall be conducted in accordance with Article 10
21 (commencing with Section 11445.10) of Chapter 4.5 or Chapter 5 (commencing with Section
22 11500) of Part 1 of Division 3 of Title 2 of the Government Code, as requested by the institution."

23 **STATUTES AND REGULATIONS**

24 9. Section 94894 of the Code states, in pertinent part:

25 "The following changes to an approval to operate are considered substantive changes and
26 require prior authorization:

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28 "(g) A significant change in the method of instructional delivery."

1 10. Section 94897 of the Code states, in pertinent part:

2 "An institution shall not do any of the following:

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4 "(j) In any manner make an untrue or misleading change in, or untrue or misleading
5 statement related to, a test score, grade or record of grades, attendance record, record indicating
6 student completion, placement, employment, salaries, or financial information, including any of
7 the following:

8 "(1) A financial report filed with the bureau.

9 "(2) Information or records relating to the student's eligibility for student financial aid
10 at the institution.

11 "(3) Any other record or document required by this chapter or by the bureau.

12 "(k) Willfully falsify, destroy, or conceal any document of record while that document of
13 record is required to be maintained by this chapter."

14 11. Section 94900.5 of the Code states, in pertinent part:

15 An institution shall maintain, for a period of not less than five years, at its principal place of
16 business in this state, complete and accurate records of all of the following information:

17

18 "(b) The names and addresses of the members of the institution's faculty and records of the
19 educational qualifications of each member of the faculty."

20 12. Section 94902 of the Code states, in pertinent part:

21 "(a) A student shall enroll solely by means of executing an enrollment agreement. The
22 enrollment agreement shall be signed by the student and by an authorized employee of the
23 institution.

24 "(b) An enrollment agreement is not enforceable unless all of the following requirements
25 are met:

26 "(1) The student has received the institution's catalog and School Performance Fact
27 Sheet prior to signing the enrollment agreement.

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1 "(3) Prior to the execution of the enrollment agreement, the student and the institution
2 have signed and dated the information required to be disclosed in the Student Performance
3 Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of Section 94910. Each of these
4 items in the Student Performance Fact Sheet shall include a line for the student to initial and
5 shall be initialed and dated by the student."

6 13. Section 94906 of the Code states:

7 "(a) An enrollment agreement shall be written in language that is easily understood. If
8 English is not the student's primary language, and the student is unable to understand the terms
9 and conditions of the enrollment agreement, the student shall have the right to obtain a clear
10 explanation of the terms and conditions and all cancellation and refund policies in his or her
11 primary language.

12 "(b) If the recruitment leading to enrollment was conducted in a language other than
13 English, the enrollment agreement, disclosures, and statements shall be in that language."

14 14. Section 94909 of the Code states:

15 "(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
16 prospective student, either in writing or electronically, with a school catalog containing, at a
17 minimum, all of the following:

18 "(1) The name, address, telephone number, and, if applicable, Internet Web site
19 address of the institution.

20 "(2) Except as specified in Article 2 (commencing with Section 94802), a statement
21 that the institution is a private institution and that it is approved to operate by the bureau.

22 "(3) The following statements:

23 "(A) 'Any questions a student may have regarding this catalog that have not
24 been satisfactorily answered by the institution may be directed to the Bureau for
25 Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet
26 Web site address), (telephone and fax numbers).'

27 "(B) 'As a prospective student, you are encouraged to review this catalog
28 prior to signing an enrollment agreement. You are also encouraged to review the

1 School Performance Fact Sheet, which must be provided to you prior to signing an
2 enrollment agreement.'

3 "(C) 'A student or any member of the public may file a complaint about this
4 institution with the Bureau for Private Postsecondary Education by calling (toll-free
5 telephone number) or by completing a complaint form, which can be obtained on the
6 bureau's Internet Web site (Internet Web site address).

7 "(4) The address or addresses where class sessions will be held.

8 "(5) A description of the programs offered and a description of the instruction
9 provided in each of the courses offered by the institution, the requirements for completion
10 of each program, including required courses, any final tests or examinations, any required
11 internships or externships, and the total number of credit hours, clock hours, or other
12 increments required for completion.

13 "(6) If the educational program is designed to lead to positions in a profession,
14 occupation, trade, or career field requiring licensure in this state, a notice to that effect and a
15 list of the requirements for eligibility for licensure.

16 "(7) Information regarding the faculty and their qualifications.

17 "(8) A detailed description of institutional policies in the following areas:

18 "(A) Admissions policies, including the institution's policies regarding the
19 acceptance of credits earned at other institutions or through challenge examinations and
20 achievement tests, admissions requirements for ability-to-benefit students, and a list
21 describing any transfer or articulation agreements between the institution and any other
22 college or university that provides for the transfer of credits earned in the program of
23 instruction. If the institution has not entered into an articulation or transfer agreement with
24 any other college or university, the institution shall disclose that fact.

25 "(B) Cancellation, withdrawal, and refund policies, including an explanation
26 that the student has the right to cancel the enrollment agreement and obtain a refund
27 of charges paid through attendance at the first class session, or the seventh day after
28 enrollment, whichever is later. The text shall also include a description of the

1 procedures that a student is required to follow to cancel the enrollment agreement or
2 withdraw from the institution and obtain a refund consistent with the requirements of
3 Article 13 (commencing with Section 94919).

4 "(C) Probation and dismissal policies.

5 "(D) Attendance policies.

6 "(E) Leave-of-absence policies.

7 "(9) The schedule of total charges for a period of attendance and an estimated
8 schedule of total charges for the entire educational program.

9 "(10) A statement reporting whether the institution participates in federal and state
10 financial aid programs, and if so, all consumer information that is required to be disclosed
11 to the student pursuant to the applicable federal and state financial aid programs.

12 "(11) A statement specifying that, if a student obtains a loan to pay for an
13 educational program, the student will have the responsibility to repay the full amount of the
14 loan plus interest, less the amount of any refund, and that, if the student has received federal
15 student financial aid funds, the student is entitled to a refund of the moneys not paid from
16 federal student financial aid program funds.

17 "(12) A statement specifying whether the institution has a pending petition in
18 bankruptcy, is operating as a debtor in possession, has filed a petition within the preceding
19 five years, or has had a petition in bankruptcy filed against it within the preceding five years
20 that resulted in reorganization under Chapter 11 of the United States Bankruptcy Code (11
21 U.S.C. Sec. 1101 et seq.).

22 "(13) If the institution provides placement services, a description of the nature
23 and extent of the placement services.

24 "(14) A description of the student's rights and responsibilities with respect to
25 the Student Tuition Recovery Fund. This statement shall specify that it is a state
26 requirement that a student who pays his or her tuition is required to pay a state-imposed
27 assessment for the Student Tuition Recovery Fund. This statement shall also describe the
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1 purpose and operation of the Student Tuition Recovery Fund and the requirements for filing
2 a claim against the Student Tuition Recovery Fund.

3 "(15) The following statement:

4 "NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND
5 CREDENTIALS EARNED AT OUR INSTITUTION

6 The transferability of credits you earn at (name of institution) is at the complete
7 discretion of an institution to which you may seek to transfer. Acceptance of the
8 (degree, diploma, or certificate) you earn in (name of educational program) is also at
9 the complete discretion of the institution to which you may seek to transfer. If the
10 (credits or degree, diploma, or certificate) that you earn at this institution are not
11 accepted at the institution to which you seek to transfer, you may be required to repeat
12 some or all of your coursework at that institution. For this reason you should make
13 certain that your attendance at this institution will meet your educational goals. This
14 may include contacting an institution to which you may seek to transfer after
15 attending (name of institution) to determine if your (credits or degree, diploma, or
16 certificate) will transfer."

17 "(16) A statement specifying whether the institution, or any of its degree
18 programs, are accredited by an accrediting agency recognized by the United States
19 Department of Education. If the institution is unaccredited and offers an associate,
20 baccalaureate, master's, or doctoral degree, or is accredited and offers an unaccredited
21 program for an associate, baccalaureate, master's, or doctoral degree, the statement shall
22 disclose the known limitations of the degree program, including, but not limited to, all of
23 the following:

24 "(A) Whether a graduate of the degree program will be eligible to sit for
25 the applicable licensure exam in California and other states.

26 "(B) A degree program that is unaccredited or a degree from an
27 unaccredited institution is not recognized for some employment positions, including,
28 but not limited to, positions with the State of California.

"(C) That a student enrolled in an unaccredited institution is not eligible
for federal financial aid programs.

"(b) If the institution has a general student brochure, the institution shall provide that
brochure to the prospective student prior to enrollment. In addition, if the institution has a
program-specific student brochure for the program in which the prospective student seeks to

1 enroll, the institution shall provide the program-specific student brochure to the prospective
2 student prior to enrollment.

3 "(c) An institution shall provide the school catalog to any person upon request. In addition,
4 if the institution has student brochures, the institution shall disclose the requested brochures to
5 any interested person upon request.

6 "(d) An accredited institution is not required to provide a School Performance Fact Sheet to
7 a prospective student who is not a California resident, not residing in California at the time of his
8 or her enrollment, and enrolling in an accredited distance learning degree program offered by the
9 institution, if the institution complies with all federal laws, the applicable laws of the state where
10 the student is located, and other appropriate laws, including, but not limited to, consumer
11 protection and student disclosure requirements."

12 15. Section 94910 of the Code states:

13 "Except as provided in subdivision (d) of Section 94909 and Section 94910.5, prior to
14 enrollment, an institution shall provide a prospective student with a School Performance Fact
15 Sheet containing, at a minimum, the following information, as it relates to the educational
16 program:

17 "(a) Completion rates for each educational program, as calculated pursuant to Article 16
18 (commencing with Section 94928).

19 "(b) Placement rates, as calculated pursuant to Article 16 (commencing with Section
20 94928), if the educational program is designed to lead to, or the institution makes any express or
21 implied claim related to preparing students for, a recognized career, occupation, vocation, job, or
22 job title.

23 "(c) License examination passage rates for programs leading to employment for which
24 passage of a state licensing examination is required, as calculated pursuant to Article 16
25 (commencing with Section 94928).

26 "(d) Salary or wage information, as calculated pursuant to Article 16 (commencing with
27 Section 94928).

28

1 "(e) If a program is too new to provide data for any of the categories listed in this
2 subdivision, the institution shall state on its fact sheet: "This program is new. Therefore, the
3 number of students who graduate, the number of students who are placed, or the starting salary
4 you can earn after finishing the educational program are unknown at this time. Information
5 regarding general salary and placement statistics may be available from government sources or
6 from the institution, but is not equivalent to actual performance data."

7 "(f) All of the following:

8 "(1) A description of the manner in which the figures described in subdivisions (a) to
9 (d), inclusive, are calculated or a statement informing the reader of where he or she may
10 obtain a description of the manner in which the figures described in subdivisions (a) to (d),
11 inclusive, are calculated.

12 "(2) A statement informing the reader of where he or she may obtain from the
13 institution a list of the employment positions determined to be within the field for which a
14 student received education and training for the calculation of job placement rates as
15 required by subdivision (b).

16 "(3) A statement informing the reader of where he or she may obtain from the
17 institution a list of the objective sources of information used to substantiate the salary
18 disclosure as required by subdivision (d).

19 "(g) The following statements:

20 "(1) 'This fact sheet is filed with the Bureau for Private Postsecondary Education.
21 Regardless of any information you may have relating to completion rates, placement rates,
22 starting salaries, or license exam passage rates, this fact sheet contains the information as
23 calculated pursuant to state law.'

24 "(2) 'Any questions a student may have regarding this fact sheet that have not been
25 satisfactorily answered by the institution may be directed to the Bureau for Private
26 Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site
27 address), (telephone and fax numbers).'

1 "(h) If the institution participates in federal financial aid programs, the most recent three
2 year cohort default rate reported by the United States Department of Education for the institution
3 and the percentage of enrolled students receiving federal student loans.

4 "(i) Data and information disclosed pursuant to subdivisions (a) to (d), inclusive, is not
5 required to include students who satisfy the qualifications specified in subdivision (d) of Section
6 94909, but an institution shall disclose whether the data, information, or both provided in its fact
7 sheet excludes students pursuant to this subdivision. An institution shall not actively use data
8 specific to the fact sheet in its recruitment materials or other recruitment efforts of students who
9 are not California residents and do not reside in California at the time of their enrollment."

10 16. Section 94912 of the Code states:

11 "Prior to the execution of an enrollment agreement, the information required to be disclosed
12 pursuant to subdivisions (a) to (d), inclusive, of Section 94910 shall be signed and dated by the
13 institution and the student. Each of these items shall also be initialed and dated by the student."

14 17. Section 94913 of the Code states:

15 "(a) An institution that maintains an Internet Web site shall provide on that Internet Web
16 site all of the following:

17 "(1) The school catalog.

18 "(2) A School Performance Fact Sheet for each educational program offered by the
19 institution

20 "(3) Student brochures offered by the institution.

21 "(4) A link to the bureau's Internet Web site.

22 "(5) The institution's most recent annual report submitted to the bureau.

23 "(b) An institution shall include information concerning where students may access the
24 bureau's Internet Web site anywhere the institution identifies itself as being approved by the
25 bureau."

26 18. California Code of Regulations, title 5, section 71720 states, in pertinent part:

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28 "(b) Instructors in an Educational Program Not Leading to a Degree.

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"(1) An institution shall employ instructors who possess the academic, experiential and professional qualifications to teach, including a minimum of three years of experience, education and training in current practices of the subject area they are teaching. If an instructor does not possess the required three years of experience, education and training in the subject area they are teaching, the institution shall document the qualifications the instructor possesses that are equivalent to the minimum qualifications.

"(2) Each instructor shall maintain their knowledge by completing continuing education courses in his or her subject area, classroom management or other courses related to teaching."

...

19. California Code of Regulations, title 5, section 71730 states, in pertinent part:

"(a) Each institution shall have a chief executive officer, a chief operating officer and chief academic officer. One person may serve more than one function.

"(b) The duties, responsibilities, and performance evaluation criteria for each administrator shall be set forth in a personnel manual or other writing maintained by the institution.

....

"(e) The chief academic officer shall possess a degree or equivalent acceptable experience at least equal to the highest qualifications required of the institution's faculty. Chief academic officers employed on the date of implementation of these regulations, who do not meet the qualifications for their positions, shall have three years to earn the necessary degrees or experience to qualify them for their position."

20. California Code of Regulations, title 5, section 71770 states, in pertinent part:

"(a) The institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify as applicable that:

1 "(1) Each student admitted to an undergraduate degree program, or a diploma
2 program, shall possess a high school diploma or its equivalent, or otherwise successfully
3 take and pass the relevant examination as required by section 94904 of the Code."

4 ...

5 21. California Code of Regulations, title 5, section 71920 states, in pertinent part:

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7 "(b) In addition to the requirements of section 94900, the file shall contain all of the
8 following pertinent student records:

9 "(1) Written records and transcripts of any formal education or training, testing, or
10 experience that are relevant to the student's qualifications for admission to the institution or
11 the institution's award of credit or acceptance of transfer credits including the following:

12 "(A) Verification of high school completion or equivalency or other
13 documentation establishing the student's ability to do college level work, such as
14 successful completion of an ability-to-benefit test;

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16 "(3) Copies of all documents signed by the student, including contracts, instruments of
17 indebtedness, and documents relating to financial aid;

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19 "(5) In addition to the requirements of section 94900(b) of the Code, a transcript
20 showing all of the following:

21 "(A) The courses or other educational programs that were completed, or were
22 attempted but not completed, and the dates of completion or withdrawal;

23

24 "(9) A document showing the total amount of money received from or on behalf of the
25 student and the date or dates on which the money was received;[.]"

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1 **COST RECOVERY**

2 22. Code section 94937 states, in pertinent part:

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

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

8 23. Section 125.3 of the Business and Professions Code provides, in pertinent part, that
9 the Board may request the administrative law judge to direct a licentiate found to have committed
10 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
11 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the
12 license to not being renewed or reinstated. If a case settles, recovery of investigation and
13 enforcement costs may be included in a stipulated settlement.

14 **FACTUAL BACKGROUND**

15 24. Diamond Beauty College was granted approval by the Bureau to offer cosmetology,
16 cosmetology instructor training, esthetician, manicuring, and message therapy courses. In August
17 2013, a Bureau Investigator conducted an inspection of Diamond Beauty College which was
18 prompted by an anonymous complaint filed in 2011. Owner Tony Do gave the Bureau
19 Investigator a tour of the college. During the tour, the Bureau Investigator observed a manicuring
20 class receiving instruction in Vietnamese, even though at that time, Diamond Beauty College was
21 not approved to offer instruction in any language other than English. The Bureau Investigator
22 also spoke with students and administrators, collected instruction materials written in Vietnamese,
23 enrollment agreements written in Vietnamese and English, and other documentation. As a result
24 of the inspection, the Bureau Investigator determined that there were numerous violations of the
25 Education Code.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Making Substantive Changes without Prior Authorization)**

3 25. Respondent is subject to disciplinary action under Code section 94932 and California
4 Code of Regulations, title 5, section 75100, and Code section 94894, subdivision (g) in that in at
5 least 2013, Respondent made a substantive change to its approval to operate without obtaining
6 prior authorization. Specifically, Respondent changed a method of instructional delivery when it
7 offered classes in Vietnamese even though it was only authorized to offer classes in English.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Violation of Institutional Records Requirements)**

10 26. Respondent is subject to disciplinary action under Code section 94932 and California
11 Code of Regulations, title 5, section 75100, and Code section 94900.5, subdivision (b) in that at
12 the time of the Bureau Investigator's inspection in 2013, Respondent did not maintain complete
13 and accurate records of the educational qualifications of each member of the institution's faculty.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Violation of General Enrollment Requirements)**

16 27. Respondent is subject to disciplinary action under Code section 94932 and California
17 Code of Regulations, title 5, section 75100, and Code section 94902, as follows:

18 (a) Respondent violated Code section 94902, subdivision (a) in that student files from
19 2013 that the Bureau Investigator examined revealed that enrollment agreements did not contain
20 both the signature of the student and the signature of Respondent's authorized employee.

21 (b) Respondent violated Code section 94902, subdivision (b)(1) in that student files from
22 2013 that the Bureau Investigator examined revealed that students did not receive a copy of the
23 School Performance Fact Sheet prior to signing the enrollment agreement.

24 (c) Respondent violated Code section 94902, subdivision (b)(3) in that student files from
25 2013 that the Bureau Investigator examined revealed that the students and Respondent's
26 authorized employee did not sign and date the information required to be disclosed in the Student
27 Performance Fact Sheet prior to signing the enrollment agreement.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violation of Requirements to Provide Documents in Students' Primary Language)**

3 28. Respondent is subject to disciplinary action under Code section 94932 and California
4 Code of Regulations, title 5, section 75100, and Code section 94906, as follows:

5 (a) Respondent violated Code section 94906, subdivision (a) in that student files from
6 2013 that the Bureau Investigator examined revealed that enrollment agreements were completed
7 in English when the students had very limited or no English vocabulary and their primary
8 language was determined to be Vietnamese. There was no evidence that the students had been
9 provided a clear explanation of the terms and conditions of the enrollment agreements and all
10 cancellation and refund policies in their primary language.

11 (b) Respondent violated Code section 94905, subdivision (b) in that Respondent recruited
12 students in Vietnamese; hence the enrollment agreements, disclosures, and other statements
13 should have been in Vietnamese. The student files from 2013 that the Bureau Investigator
14 examined revealed that the enrollment agreements, disclosures, and statements were provided in
15 English.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Violation of School Catalog Requirements)**

18 29. Respondent is subject to disciplinary action under Code section 94932 and California
19 Code of Regulations, title 5, section 75100, and Code section 94909, subdivision (a) in that
20 Respondent was required to provide prospective students, either electronically or in writing, with
21 a school catalog. In at least 2013, Respondent failed to provide its prospective students with any
22 catalog prior to enrollment.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Violation of School Performance Fact Sheet Requirements)**

25 30. Respondent is subject to disciplinary action under Code section 94932 and California
26 Code of Regulations, title 5, section 75100, and Code section 94910 in that Respondent was
27 required to provide prospective students with a School Performance Fact Sheet. In at least 2013,
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1 Respondent failed to provide its prospective students with any such School Performance Fact
2 Sheet.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Violation of Signature and Initials Requirements)**

5 31. Respondent is subject to disciplinary action under Code section 94932 and California
6 Code of Regulations, title 5, section 75100, and Code section 94912 in that student files from
7 2013 that the Bureau Investigator examined revealed that School Performance Fact Sheets were
8 not signed and dated by the students and Respondent's authorized employee and were not initialed
9 and dated by the students prior to signing the enrollment agreements. School Performance Fact
10 Sheets were not observed in the student files.

11 **EIGHTH CAUSE FOR DISCIPLINE**

12 **(Violation of Website Requirements)**

13 32. Respondent is subject to disciplinary action under Code section 94932 and California
14 Code of Regulations, title 5, section 75100, and Code section 94913, as follows:

15 (a) Respondent violated Code section 94913, subdivision (a)(1) in that in at least August
16 2013, Respondent's website did not contain the school catalog.

17 (b) Respondent violated Code section 94913, subdivision (a)(2) in that in at least August
18 2013, Respondent's website did not contain a School Performance Fact Sheet for each educational
19 program offered.

20 (c) Respondent violated Code section 94913, subdivision (a)(4) in that in at least August
21 2013, Respondent's website did not contain a link to the Bureau's website.

22 (d) Respondent violated Code section 94914, subdivision (a)(5) in that in at least August
23 2013, Respondent's website did not contain it's most recent annual report submitted to the Bureau.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Violation of Faculty Requirements)**

3 33. Respondent is subject to disciplinary action under Code section 94932 and California
4 Code of Regulations, title 5, sections 75100 and 71720, as follows:

5 (a) Respondent violated California Code of Regulations, title 5, section 71720,
6 subdivision (b)(1) in that in August 2013, Respondent did not maintain faculty instructor files to
7 show evidence to the Bureau Investigator that Respondent employed instructors who possessed
8 the academic, experiential, and professional qualifications to teach.

9 (b) Respondent violated California Code of Regulations, title 5, section 71720,
10 subdivision (b)(2) in that in August 2013, Respondent did not maintain faculty instructor files to
11 show evidence to the Bureau Investigator that each instructor maintained his or her knowledge by
12 completing continuing education courses in his or her subject matter, classroom management, or
13 other courses related to teaching.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Violation of Administration Requirements)**

16 34. Respondent is subject to disciplinary action under Code section 94932 and California
17 Code of Regulations, title 5, sections 75100 and 71730, as follows:

18 (a) Respondent violated California Code of Regulations, title 5, section 71730,
19 subdivision (a) in that in August 2013, Respondent did not maintain evidence to show the Bureau
20 Investigator that Respondent had a chief executive officer, chief operating officer, and chief
21 academic officer.

22 (b) Respondent violated California Code of Regulations, title 5, section 71730,
23 subdivision (b) in that in August 2013, Respondent did not provide evidence to show the Bureau
24 Investigator that Respondent maintained a personnel manual or other writing setting forth the
25 duties, responsibilities, and performance evaluation criteria for each administrator.

26 (c) Respondent violated California Code of Regulations, title 5, section 71730,
27 subdivision (e) in that in August 2013, Respondent did not maintain evidence to show the Bureau
28 Investigator that Respondent's chief academic officer possessed the requisite qualifications.

1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 **(Violation of Admissions Standard and Transferred Credits Policy)**

3 35. Respondent is subject to disciplinary action under Code section 94932 and California
4 Code of Regulations, title 5, sections 75100 and 71770, subdivision (a)(1) in that in at least 2013,
5 Respondent did not establish specific written standards for each educational program and
6 Respondent did not establish admissions standards that specified that each admitted student must
7 possess a high school diploma, or its equivalent, or shall successfully take and pass the relevant
8 examination.

9 **TWELFTH CAUSE FOR DISCIPLINE**

10 **(Violation of Student Records Requirements)**

11 36. Respondent is subject to disciplinary action under Code section 94932 and California
12 Code of Regulations, title 5, sections 75100 and 71920 as follows:

13 (a) Respondent violated California Code of Regulations, title 5, section 71920,
14 subdivision (b)(1)(A) in that student files from 2013 that the Bureau Investigator examined
15 revealed that Respondent did not maintain verification of high school completion or equivalency
16 or other documentation establishing the students' ability to do college level work, such as
17 successful completion of an ability-to-benefit test.

18 (b) Respondent violated California Code of Regulations, title 5, section 71920,
19 subdivision (b)(3) in that student files from 2013 that the Bureau Investigator examined revealed
20 that the files did not contain copies of all documents signed by the students, including enrollment
21 agreements, payments, and financial aid forms.

22 (c) Respondent violated California Code of Regulations, title 5, section 71920,
23 subdivision (b)(5)(A) in that student files from 2013 that the Bureau Investigator examined
24 revealed that the files did not contain a transcript showing the courses completed or attempted.

25 (d) Respondent violated California Code of Regulations, title 5, section 71920,
26 subdivision (b)(9) in that student files from 2013 that the Bureau Investigator examined revealed
27 that the files did not contain any information regarding the total money received from, or on
28 behalf of, the students and the date or dates on which the money was received.

1 **THIRTEENTH CAUSE FOR DISCIPLINE**

2 **(Engaging in Prohibited Business Practices)**

3 37. Respondent is subject to disciplinary action under Code section 94897, subdivisions
4 (j) and (k) on the grounds that Respondent allowed its non-English speaking students to take and
5 pass the Ability to Benefit ("ABT") examination with the proctor lending impermissible
6 assistance. The circumstances are as follows:

7 38. The Bureau Investigator closely reviewed the student file for T.Q. from 2013. T.Q.
8 completed an enrollment agreement in Vietnamese. T.Q. did not graduate high school or possess
9 a GED or the equivalent. Nevertheless, T.Q. completed the ATB examination administered by
10 ACT COMPASS, which is computer based and offered only in English, on July 29, 2013 in 14
11 minutes and 39 seconds. T.Q. reviewed the writing skills directions in 37 seconds and completed
12 the writing skills test in 5 minutes and 5 seconds with a score of 93. T.Q. reviewed the math
13 skills directions in 10 seconds, completed the pre-algebra test in 1 minute and 32 seconds with a
14 score of 93 and completed the algebra test in 59 seconds with a score of 16. T.Q. reviewed the
15 reading skills directions in 10 seconds and completed the reading skills test in 4 minutes and 53
16 seconds with a score of 88. These times are inconsistent with a person completing the
17 examination under normal conditions. Rather, they are indicative of a person completing the
18 examination with the answers already available.

19 39. The Bureau Investigator was told by one of Respondent's Directors that a registered
20 proctor from ACT COMPASS would administer the ABT exam on Respondent's computers. If
21 the students do not read or write English, the proctor reads the questions and translates the
22 students' responses. Respondent's Director was not aware of who types the responses to the
23 questions on the computer.

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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 or suspending the Approval to Operate an Accredited Institution Number 36348756, issued to Diamond Beauty College with Tony Do as owner;
2. Ordering Diamond Beauty College and Tony Do to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

May 28, 2015 

JOANNE WENZEL
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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