

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

In the Matter of the Accusation Against:

**CALIFORNIA UNIVERSITY OF
MANAGEMENT & SCIENCES
721 N. Euclid Street
Anaheim, CA 92801**

School Code 3012941

Respondent.

Case No. 999964

OAH No. 2017110624

DECISION AND ORDER

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

JUL 6 2018

This Decision shall become effective on _____

It is so ORDERED

May 21, 2018



RYAN MARCROET
DEPUTY DIRECTOR, LEGAL AFFAIRS
DEPARTMENT OF CONSUMER AFFAIRS

1 XAVIER BECERRA
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2 ANTOINETTE B. CINCOTTA
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Attorneys for Complainant.

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9 **BEFORE THE**
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10 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA

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Anaheim, CA 92801

OAH No. 2017110624

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15
16 **School Code 3012941**

17 Respondent.

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

21 PARTIES

22 1. Dr. Michael Marion, Jr. (Complainant) is the Chief of the Bureau for Private
23 Postsecondary Education (Bureau). This matter was originally brought by Joanne Wenzel solely
24 in her former official capacity as the Chief of the Bureau. Complainant is represented in this
25 matter by Xavier Becerra, Attorney General of the State of California, by Marichelle S. Tahimic,
26 Deputy Attorney General.

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1 2. Respondent California University of Management & Sciences (Respondent) is
2 represented in this proceeding by attorney Katherine Lee Carey, Cooley LLP, whose address is:
3 4401 Eastgate Mall, San Diego, CA 92121-1909.

4 3. On or about January 1, 1995, the Bureau for Private Postsecondary and Vocational
5 Education (hereinafter "BPPVE") issued an approval to operate California University of
6 Management and Sciences, which expired on December 31, 2017.

7 JURISDICTION

8 4. Accusation No. 999964 was filed before the Director of the Department of Consumer
9 Affairs, and is currently pending against Respondent. The Accusation and all other statutorily
10 required documents were properly served on Respondent on August 23, 2017. Respondent timely
11 filed its Notice of Defense contesting the Accusation.

12 5. A copy of Accusation No. 999964 is attached as exhibit A and incorporated herein by
13 reference.

14 ADVISEMENT AND WAIVERS

15 6. Respondent has carefully read, fully discussed with counsel, and understands the
16 charges and allegations in Accusation No. 999964. Respondent has also carefully read, fully
17 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
18 Order.

19 7. Respondent is fully aware of its legal rights in this matter, including the right to a
20 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
21 the witnesses against them; the right to present evidence and to testify on its own behalf; the right
22 to the issuance of subpoenas to compel the attendance of witnesses and the production of
23 documents; the right to reconsideration and court review of an adverse decision; and all other
24 rights accorded by the California Administrative Procedure Act and other applicable laws.

25 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
26 every right set forth above.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 999964.

4 10. Respondent agrees that its approval to operate a private postsecondary institution is
5 subject to discipline and it agrees to be bound by the Director's probationary terms as set forth in
6 the Disciplinary Order below.

7 11. Respondent's admissions herein are not deemed to be admissions of South Baylo
8 University, dba South Baylo University School of Oriental Medicine in Accusation No. 999965.

9 CONTINGENCY

10 12. This stipulation shall be subject to approval by the Director of the Department of
11 Consumer Affairs or the Director's designee. Respondent understands and agrees that counsel for
12 Complainant and the staff of the Bureau for Private Postsecondary Education may communicate
13 directly with the Director and staff of the Department of Consumer Affairs regarding this
14 stipulation and settlement, without notice to or participation by Respondent or its counsel. By
15 signing the stipulation, Respondent understands and agrees that it may not withdraw its
16 agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon
17 it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated
18 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
19 be inadmissible in any legal action between the parties, and the Director shall not be disqualified
20 from further action by having considered this matter.

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

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

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that the approval to operate a private postsecondary accredited
8 institution (School Code Number 3012941) issued to Respondent California University of
9 Management & Sciences is revoked. However, the revocation is stayed and Respondent is placed
10 on probation for five (5) years on the following terms and conditions.

11 **Severability Clause.** Each condition of probation contained herein is a separate and
12 distinct condition. If any condition of this Order, or any application thereof, is declared
13 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
14 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
15 and enforceable to the fullest extent permitted by law.

16 **1. Obey All Laws**

17 Respondent shall obey all federal, state and local laws and regulations governing the
18 operation of a private postsecondary educational institution in California. Respondent shall
19 submit, in writing, a full detailed account of any and all violations of the law to the Bureau within
20 five (5) days of discovery.

21 **CRIMINAL COURT ORDERS:** If respondent is under criminal court orders, including
22 probation or parole, and the order is violated, this shall be deemed a violation of these probation
23 conditions, and may result in the filing of an Accusation and/or Petition to Revoke Probation.

24 **2. Compliance with Probation and Quarterly Reporting**

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

3 **3. Personal Appearances**

4 Upon reasonable notice by the Bureau, Respondent shall report to and make personal
5 appearances at times and locations as the Bureau may direct.

6 **4. Notification of Address and Telephone Number Change(s)**

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

13 Prior Bureau approval is required before Respondent makes any changes regarding
14 ownership or control of 25% or more of the stock or an interest in of the institution and, to the
15 extent applicable, each general partner, officer, corporate director, corporate member or any other
16 person who exercises substantial control over the institution's management or policies.
17 Respondent shall submit an Application for Substantive Change to the Bureau before any changes
18 are made regarding ownership or control of 25% or more of the stock or an interest in of the
19 institution and, to the extent applicable, each general partner, officer, corporate director, corporate
20 member or any other person who exercises substantial control over the institution's management
21 or policies.

22 **5. Notification to Prospective Students**

23 When currently soliciting or enrolling (or re-enrolling) a student for any program,
24 respondent shall provide notification of this action to each current or prospective student prior to
25 accepting their enrollment, and to those students who were enrolled at the time of the conduct that
26 is the subject of this action as directed by the Bureau. This notification shall include a copy of the
27 Accusation, Statement of Issues, Stipulated Settlement, or Disciplinary Decision (whichever
28 applies).

1 A copy of the notification shall be provided to the Bureau, along with the names of the
2 students and prospective students notified, their current contact information, and the date of the
3 notification.

4 **6. Student Roster**

5 Within 15 days of the effective date of this Decision, and with the Quarterly Reports
6 thereafter, provide to the Bureau the names, addresses, phone numbers, email addresses,
7 programs in which they are or were enrolled, date of enrollment, cost of the program, and the
8 amount paid, of all persons who are currently or were students of the institution within 60 days
9 prior to the effective date of the Decision, and those students who were enrolled at the time of the
10 conduct that is the subject of this action.

11 **7. Instruction Requirements and Limitations**

12 During probation, Respondent shall provide approved instruction in the State of California.
13 If respondent is not providing instruction, the period of probation shall be tolled during that time.

14 **8. Record Storage**

15 Within 5 days of the effective date of this Decision, provide the Bureau with the location of
16 the repository for all records as they are required to be maintained pursuant to Title 5, California
17 Code of Regulations, section 71930.

18 **9. Maintenance of Current and Active Approval to Operate**

19 Respondent shall, at all times while on probation, maintain a current and active approval to
20 operate with the Bureau including any period during which approval is suspended or probation is
21 tolled.

22 **10. Comply With Citations**

23 Respondent shall comply with all final orders resulting from citations issued by the Bureau.

24 **11. Cost Recovery Requirements**

25 Respondent shall pay to the Bureau its costs of investigation and enforcement in the amount
26 of \$19,389.91 no later than one year before the termination of probation. Such costs shall be
27 payable to the Bureau and are to be paid regardless of whether the probation is tolled. Failure to
28 pay such costs shall be considered a violation of probation.

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

3 **12. Violation of Probation**

4 If Respondent violates probation in any respect, the Bureau, after giving Respondent notice
5 and opportunity to be heard, may revoke probation and carry out the disciplinary order which was
6 stayed. If an Accusation or a Petition to Revoke Probation is filed against Respondent during
7 probation, the Bureau shall have continuing jurisdiction until the matter is final, and the period of
8 probation shall be extended, and Respondent shall comply with all probation conditions, until the
9 matter is final.

10 **13. Future Approvals to Operate**

11 If respondent subsequently obtains other approvals to operate during the course of this
12 probationary order, this Decision shall remain in full force and effect until the probationary period
13 is successfully terminated. Future approvals shall not be granted, however, unless Respondent is
14 currently in compliance with all of the terms and conditions of probation.

15 **14. Comply with All Accreditation Standards**

16 As applicable, Respondent shall comply with all standards set by its accreditor in order to
17 maintain its accreditation. Respondent shall submit to the Bureau, in writing, a full detailed
18 account of any and all actions taken by any accrediting agency against Respondent regarding any
19 institution operated by respondent, including an order to show cause, or conditions or restrictions
20 placed on accreditation, within five (5) days of occurrence.

21 **15. Completion of Probation**

22 Upon successful completion of probation, Respondent's approval to operate will be fully
23 restored.

24 **16. Operations Auditor/Billing Auditor**

25 Within 45 days of the effective date of this Decision, Respondent shall submit to the Bureau
26 for prior approval, the name and qualifications of an auditor who is experienced in operations or
27 accounting practices for educational institutions, who has agreed to serve as an operations auditor
28 /billing auditor. The auditor shall (1) be a California-licensed certified public accountant or

1 public accountant with a clear and current license; and (2) have no prior or current business,
2 professional, personal or other relationship with Respondent, or any former owner, director, or
3 officer of Respondent institution.

4 Once approved, the auditor shall submit to the Bureau or its designee a plan by which
5 Respondent's operations shall be audited. Auditing shall consist of at least one hour per month of
6 face to face meetings with Respondent and shall continue during the entire probationary period.

7 While such face to face meetings may include a director or employee of the institution not
8 listed as having ownership or control, at least one person listed as having ownership or control
9 shall participate in each such meeting. The Respondent shall provide the auditor with a copy of
10 this Decision and access to Respondent's fiscal and/or student records. Respondent shall obtain
11 any necessary student releases to enable the auditor to review records and to make direct contact
12 with students. Respondent shall execute a release authorizing the auditor to divulge any
13 information that the Bureau may request. It shall be Respondent's responsibility to assure that the
14 auditor submits written reports to the Bureau on a quarterly basis verifying that auditing has taken
15 place and providing an evaluation of Respondent's performance.

16 Respondent shall notify all current and potential students of any term or condition of
17 probation that will affect the confidentiality of their records (such as this condition, which
18 requires an operations auditor /billing auditor). Such notifications shall be signed by each student
19 prior to continuing or beginning enrollment.

20 If the auditor quits or is otherwise no longer available, Respondent shall notify the Bureau
21 within 10 days and get approval from the Bureau for a new auditor within 30 days. If no new
22 auditor is approved within 30 days, Respondent shall not operate until a new auditor has been
23 approved by the Bureau. During this period of non-operation, probation will be tolled and will not
24 commence again until the period of non-operation is completed. Respondent shall pay all costs
25 associated with this auditing requirement. Failure to pay these costs shall be considered a
26 violation of probation.

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17. Records Maintenance

With 45 days of the effective date of this Decision, provide for and secure a second set of all academic and financial records as required by Title 5, California Code of Regulations, section 71930, and provide to the Bureau the location of these records, and access to them upon request.

18. Replace Owner or Person in Control

Within 15 days of the effective date of this Decision, Respondent shall no longer permit the following individuals to have any ownership interest in, or control over the stock, or other interest in the assets of the institution, and from access to, or involvement, in student records during the term of probation: David Park, Jason Shin, Jeff Beasca, James Kim, and Jennifer Park.

19. Cease Enrollment

Respondent shall not enroll new students in any educational programs prior to submission of Respondent's first Quarterly Report to the Bureau pursuant to Condition 2.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Yuliya Barron. I understand the stipulation and the effect it will have on the approval to operate issued to California University of Management & Sciences. Respondent California University of Management & Sciences enters into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

DATED: 02-13-2018

Signature:

Printed name/Title:

Authorized agent of

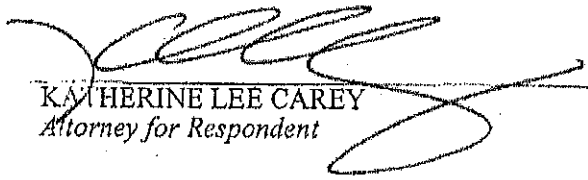
CALIFORNIA UNIVERSITY OF MANAGEMENT & SCIENCES

Respondent

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1 I have read and fully discussed with Respondent California University of Management &
2 Sciences the terms and conditions and other matters contained in the above Stipulated Settlement
3 and Disciplinary Order. I approve its form and content.

4
5 DATED: 2/12/18


KATHERINE LEE CAREY
Attorney for Respondent

8 ENDORSEMENT

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

11
12 Dated:

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General

MARICHELLE S. TAHIMIC
Deputy Attorney General
Attorneys for Complainant

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I have read and fully discussed with Respondent California University of Management & Sciences the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____
KATHERINE LEE CAREY
Attorney for Respondent

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. 14, 2018*

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
Marichelle S. Tahimic
MARICHELLE S. TAHIMIC
Deputy Attorney General
Attorneys for Complainant

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