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3 **BEFORE THE**
4 **DEPARTMENT OF CONSUMER AFFAIRS**
5 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
6 **STATE OF CALIFORNIA**

6 In the Matter of the First Amended Accusation
7 Against:
8 **CITY BEAUTY COLLEGE**
9 2300 Florin Road
10 Sacramento, CA 95822
11 **JOHN THAI TRAN, OWNER**

12 **Approval to Operate No. 93832312**

13 And

14 **CITY BEAUTY COLLEGE**
15 **NGA HUYNH, PERSON IN CONTROL**
16 **TERI NGO, AKA THI NGO, PERSON IN**
17 **CONTROL**

18 6853 65TH Street, Suite C
19 Sacramento, CA 95828

20 And

21 8587 Culpepper Drive
22 Sacramento, CA 95828

23 Respondents.

Case No. 998285

OAH No. 2013071135

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

24 **FINDINGS OF FACT**

25 1. On or about June 3, 2013, Complainant Joanne Wenzel (“Complainant”), in her
26 official capacity as the Chief of the Bureau for Private Postsecondary Education¹ (“Bureau),

27 ¹ On July 1, 2007, the former Bureau for Private Postsecondary and Vocational Education
28 was abolished by expiration of its statutory authorization. On October 11, 2009, the California
Private Postsecondary Education Act of 2009 (“Act”) was signed into law. (Educ. Code,
§§ 94800, et seq.) The Act became operational on January 1, 2010, and established the Bureau
for Private Postsecondary Education.

1 Department of Consumer Affairs, filed Accusation No. 998285 against Respondents City Beauty
2 College, John Thai Tran, Owner, ("Tran") before the Director of the Department of Consumer
3 Affairs. The Accusation was superseded by the First Amended Accusation No. 998285 in all
4 respects.

5 2. On or about December 10, 2004, the Bureau issued Approval to Operate No.
6 93832312 to Respondents City Beauty College and Tran. The Approval expired on September
7 28, 2013, and has not been renewed. Pursuant to Business and Professions Code section 118,
8 subdivision (b), the expiration of a license during the period in which it may be renewed, does not
9 deprive the Director of taking disciplinary action against a licensee.

10 3. On or about June 3, 2013, Respondents City and Tran were served by Certified First
11 Class Mail copies of the Accusation No. 992825, Statement to Respondent, Notice of Defense,
12 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
13 and 11507.7) at Respondents' address of record, which pursuant to Business and Professions
14 Code 136 is required to be reported and maintained with the Bureau. Respondents' address of
15 record was and is: City Beauty College, John Thai Tran, Owner, 2300 Florin Road, Sacramento,
16 CA 95822. None of the aforementioned documents were returned by the U.S. Postal Service.

17 4. On or about April 9, 2014, Respondents were served First Amended Accusation No.
18 998285 and the Supplemental Statement to Respondent at Respondents' address of record which
19 was, and is: City Beauty College, John Thai Tran, Owner, 2300 Florin Road, Sacramento, CA
20 95822. The aforementioned documents were returned by the U.S. Postal Service and marked
21 "Unclaimed." The First Amended Accusation No. 998285 superseded the original accusation in
22 all respects.

23 5. On or about April 23, 2014, the agent for service of process for Respondents City
24 Beauty College and John Tran, Owner, was served First Amended Accusation No. 998285 and
25 the Supplemental Statement at the address of record for the agent for service of process which,
26 pursuant to California Code of Regulations, title 5, section 74190 is required to be reported and
27 maintained with the Bureau. The address of record for the agent for service of process is, and
28 was: Kenny Tran, Agent for Service of Process, 8355 Middle River Court, Sacramento, CA

1 95828. The aforementioned documents were returned by the U.S. Postal Service marked "return
2 to sender," "attempted – not known," and "unable to forward."

3 6. Service of the Accusation and First Amended Accusation was effective as a matter of
4 law under the provisions of Government Code section 11505, subdivision (c) and/or Business &
5 Professions Code section 124.

6 7. Government Code section 11506 states, in pertinent part:

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent
8 files a notice of defense, and the notice shall be deemed a specific denial of all parts
9 of the accusation not expressly admitted. Failure to file a notice of defense shall
10 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
11 may nevertheless grant a hearing.

12 8. Respondent Tran failed to file a Notice of Defense within fifteen (15) days after
13 service upon him of the Accusation, and therefore waived his right to a hearing on the merits of
14 Accusation No. 998285.

15 9. California Government Code section 11520 states, in pertinent part:

16 (a) If the respondent either fails to file a notice of defense or to appear at the
17 hearing, the agency may take action based upon the respondent's express admissions
18 or upon other evidence and affidavits may be used as evidence without any notice to
19 respondent.

20 10. Pursuant to its authority under Government Code section 11520, the Director finds
21 Respondent is in default. The Director will take action without further hearing and, based on the
22 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
23 as well as taking official notice of all the investigatory reports, exhibits and statements contained
24 therein on file at the Director's offices regarding the allegations contained in First Amended
25 Accusation No. 998285, finds that the following charges and allegations in First Amended
26 Accusation No. 998285 are, separately and severally, found to be true and correct: Second
27 through Fifty-Fifth Causes for Discipline. Although the standard of proof is preponderance of the
28 evidence, the standard has been met by clear and convincing evidence.

11. The Bureau submitted costs for Investigation and Enforcement in the amount of
\$21,053.88 as of May 12, 2014. The Certification of Costs submitted by the Office of the
Attorney General contains many entries labeled "Communication with Other Party," as well as

1 "Trial Preparation." It is undisputed that Mr. Tran failed to file a Notice of Defense to this action.
2 There is no indication that the Deputy Attorney General ever had any contact with him.
3 Accordingly, the Certification of Costs is not found to be reasonable with respect to Mr. Tran.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondents City Beauty College and John
6 Thai Tran, Owner, (collectively referred to herein as "Respondents") have subjected the Approval
7 to Operate No. 93832312 ("Institution Code") to discipline.

8 2. The agency has jurisdiction to adjudicate this case by default.

9 3. The Director of the Department of Consumer Affairs is authorized to revoke
10 Respondents' Approval to Operate No. 93832312 based upon the following violations alleged in
11 First Amended Accusation No. 998285 that are supported by the evidence contained in the
12 Default Decision Investigatory Evidence Packet in this case.

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15 **ORDER**

16 **IT IS SO ORDERED** that the Approval to Operate Institution Code No. 93832312,
17 heretofore issued to Respondent City Beauty College, John Thai Tran, Owner, is REVOKED.

18 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
19 written motion requesting that the Decision be vacated and stating the grounds relied on within
20 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
21 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

22 This Decision shall become effective on NOV 22 2014.

23 It is so ORDERED October 22, 2014

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27 DOREATHEA JOHNSON
28 Deputy Director, Legal Affairs
Department of Consumer Affairs