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2	KENT D. HARRIS	
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8	Attorneys for Complainant	
	BEFORE THE	
9	DEPARTMENT OF CONSUMER AFFAIRS FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION	
10	STATE OF CALIFORNIA	
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	T d No. 11 Con Co. 1 Co.	G. N. 1000000
12	In the Matter of the Statement of Issues Against:	Case No. 1000396
13		OAH No. 2015100780
14	MOLER BARBER COLLEGE,	STIPULATED SURRENDER OF
15	KENO MODICA, OWNER	APPROVAL TO OPERATE AND ORDER
16	Applicant for Renewal of Approval to	
	Operate and Offer Educational Programs for Non-Accredited Institutions	
17	Institution Code: 3400961	
18		
19	Respondent.	
20		.
21	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-	
22	entitled proceedings that the following matters are true:	
23	PARTIES	
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	1. Joanne Wenzel ("Complainant") is the Chief of the Bureau for Private Postsecondary	
25	Education ("Bureau"), Department of Consumer Affairs. She brought this action solely in her	
26	official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the	
27	State of California, by Stephanie Alamo-Latif, Deputy Attorney General.	
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- 2. Keno Modica, owner of Moler Barber College ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.
- 3. On or about June 27, 2012, the Bureau received an Application for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions ("Renewal Application") from James Knauss, owner of Moler Barber College. On or about March 13, 2013, the Bureau received a request for change of business/ownership from Keno Modica. On or about December 11, 2014, the Bureau granted a change of business/ownership to Keno Modica, owner of Moler Barber College ("Respondent").
- 4. On or about January 30, 2015, the Bureau issued to Respondent a Notice of Denial of Application for Renewal of Approval to Operate. On or about March 25, 2015, the Bureau received a letter from Respondent requesting an administrative hearing.

JURISDICTION |

5. Statement of Issues No. 1000396 was filed before the Director of Consumer Affairs ("Director"), for the Bureau, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on September 29, 2015. A copy of Statement of Issues No. 1000396 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- 6. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 1000396. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of Approval to Operate and Order.
- 7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

- 9. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 1000396, agrees that cause exists for discipline and hereby relinquishes and surrenders his Approval to Operate No. 1000396, and submits this Stipulated Surrender of Approval to Operate to the Director for formal acceptance.
- Respondent understands that by signing this stipulation he enables the Director to issue his order accepting the surrender of his Approval to Operate without further process.

CONTINGENCY

- 11. This stipulation shall be subject to approval by the Director or the Director's designee. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau for Private Postsecondary Education may communicate directly with the Director and staff regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Surrender of Approval to Operate and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.
- 12. The parties understand and agree that Portable Document Format (PDF), facsimile, and/or electronic copies of this Stipulated Surrender of Approval to Operate and Order, including Portable Document Format (PDF), facsimile and/or electronic signatures thereto, shall have the same force and effect as the originals.
- This Stipulated Surrender of Approval to Operate and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of

Approval to Operate and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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

<u>ORDER</u>

IT IS HEREBY ORDERED that any and all right, title, claim, interest, or ownership interest, possessed by Respondent Keno Modica, owner of Moler Barber College, or which he may be entitled to now, or in the future, in Approval to Operate No. 1000396, issued to Keno Modica, owner of Moler Barber College, is relinquished and surrendered by Respondent, and accepted by the Director of Consumer Affairs.

- 1. The surrender of any and all right, title, claim, interest, or ownership interest, if any, in Approval to Operate No. 1000396 by Respondent Keno Modica, owner of Moler Barber College, or which he may be entitled to now, or in the future, in Approval to Operate No. 1000396, and the acceptance of the surrendered rights, if any, in the Approval by the Bureau shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Bureau for Private Postsecondary Education.
- 2. Respondent shall lose any and all rights and privileges, if any, and all right, title, claim, interest and/or ownership which he has in Approval to Operate No. 1000396 on the effective date of the Director's Decision and Order.
- 3. If Respondent should ever apply for a new license, certificate, registration, approval, institution code number, or any type of authorization whatsoever, with the Bureau or for a related endorsement with the Board of Barbering and Cosmetology in the State of California, then the Bureau shall treat it as a new application for licensure. Respondent shall comply with all laws, regulations, and procedures for licensure in effect at the time the application is filed. All charges and allegations contained in Statement of Issues No. 1000396 shall be deemed to be true, correct,

proven and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

- 4. Respondent admits that he failed to submit Annual Fees to the Bureau by October 1, 2012, and October 1, 2013, October 1, 2014, and October 1, 2015. Respondent Keno Modica, owner of Moler Barber College, is liable for payment of the delinquent Annual Fees to the Bureau prior to issuance of any approval for a new license, certificate, registration, approval, institution code number, or any type of authorization whatsoever, by the Bureau.
- 6. Respondent admits that he failed to submit to the Bureau, the assessment collected from students for the Student Tuition Recovery Fund ("STRF") for the fourth quarter in 2013, and for all quarters in 2014. Respondent is liable for payment of the full amount of the delinquent STRF assessments to the Bureau prior to issuance of a new license, certificate, registration, approval, institution code number, or any type of authorization whatsoever, by the Bureau.

ACCEPTANCE

I have carefully read the Stipulated Surrender of Approval to Operate and Order. I understand the stipulation and the effect it will have on any right, title, claim, interest or ownership in Approval to Operate No. 1000396. I enter into this Stipulated Surrender of Approval to Operate and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.,

DATED: 02-16-16

KENO MODICA

OWNER OF MOLER BARBER COLLEGE

Respondent

ENDORSEMENT The foregoing Stipulated Surrender of Approval to Operate and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs. 2/11/2016 Dated: Respectfully submitted, KAMALA D. HARRIS Attorney General of California KENT D. HARRIS Supervising Deputy Attorney General STEPHANIE ALAMO-LATIF Deputy Attorney General Attorneys for Complainant SA2015103476/

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

Case No. 1000396		
OAH No. 2015100780		
ORDER OF DECISION		
•		
DECISION		
The attached Stipulated Surrender of Approval to Operate and Order is hereby accepted		
and adopted by the Director of the Department of Consumer Affairs as the Decision in the		

COOREATHEA JOHNSON

Deputy Director, Legal Affairs
Department of Consumer Affairs

The Decision shall become effective ____

DATED: