

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-6819
Facsimile: (916) 327-8643
7 E-mail: Stephanie.AlamoLatif@doj.ca.gov
Attorneys for Complainant

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

11
12 In the Matter of the Statement of Issues
Against:
13
14 **MOLER BARBER COLLEGE,**
KENO MODICA, OWNER
15
16 **Applicant for Renewal of Approval to**
Operate and Offer Educational Programs
17 **for Non-Accredited Institutions**
18
19 **Institution Code: 3400961**

Respondent.

Case No. 1000396
OAH No. 2015100780
STIPULATED SURRENDER OF
APPROVAL TO OPERATE AND
ORDER

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

24 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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1 2. Keno Modica, owner of Moler Barber College ("Respondent") is representing himself
2 in this proceeding and has chosen not to exercise his right to be represented by counsel.

3 3. On or about June 27, 2012, the Bureau received an Application for Renewal of
4 Approval to Operate and Offer Educational Programs for Non-Accredited Institutions ("Renewal
5 Application ") from James Knauss, owner of Moler Barber College. On or about March 13,
6 2013, the Bureau received a request for change of business/ownership from Keno Modica. On or
7 about December 11, 2014, the Bureau granted a change of business/ownership to Keno Modica,
8 owner of Moler Barber College ("Respondent").

9 4. On or about January 30, 2015, the Bureau issued to Respondent a Notice of Denial of
10 Application for Renewal of Approval to Operate. On or about March 25, 2015, the Bureau
11 received a letter from Respondent requesting an administrative hearing.

12 JURISDICTION

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

18 ADVISEMENT AND WAIVERS

19 6. Respondent has carefully read, and understands the charges and allegations in
20 Statement of Issues No. 1000396. Respondent also has carefully read, and understands the effects
21 of this Stipulated Surrender of Approval to Operate and Order.

22 7. Respondent is fully aware of his legal rights in this matter, including the right to a
23 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
24 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
25 the right to present evidence and to testify on his own behalf; the right to the issuance of
26 subpoenas to compel the attendance of witnesses and the production of documents; the right to
27 reconsideration and court review of an adverse decision; and all other rights accorded by the
28 California Administrative Procedure Act and other applicable laws.

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

3 CULPABILITY

4 9. Respondent admits the truth of each and every charge and allegation in Statement of
5 Issues No. 1000396, agrees that cause exists for discipline and hereby relinquishes and surrenders
6 his Approval to Operate No. 1000396, and submits this Stipulated Surrender of Approval to
7 Operate to the Director for formal acceptance.

8 10. Respondent understands that by signing this stipulation he enables the Director to
9 issue his order accepting the surrender of his Approval to Operate without further process.

10 CONTINGENCY

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

21 12. The parties understand and agree that Portable Document Format (PDF), facsimile,
22 and/or electronic copies of this Stipulated Surrender of Approval to Operate and Order, including
23 Portable Document Format (PDF), facsimile and/or electronic signatures thereto, shall have the
24 same force and effect as the originals.

25 13. This Stipulated Surrender of Approval to Operate and Order is intended by the parties
26 to be an integrated writing representing the complete, final, and exclusive embodiment of their
27 agreement. It supersedes any and all prior or contemporaneous agreements, understandings,
28 discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of

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

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

7 **ORDER**

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

13 1. The surrender of any and all right, title, claim, interest, or ownership interest, if any,
14 in Approval to Operate No. 1000396 by Respondent Keno Modica, owner of Moler Barber
15 College, or which he may be entitled to now, or in the future, in Approval to Operate No.
16 1000396, and the acceptance of the surrendered rights, if any, in the Approval by the Bureau shall
17 constitute the imposition of discipline against Respondent. This stipulation constitutes a record of
18 the discipline and shall become a part of Respondent's license history with the Bureau for Private
19 Postsecondary Education.

20 2. Respondent shall lose any and all rights and privileges, if any, and all right, title,
21 claim, interest and/or ownership which he has in Approval to Operate No. 1000396 on the
22 effective date of the Director's Decision and Order.

23 3. If Respondent should ever apply for a new license, certificate, registration, approval,
24 institution code number, or any type of authorization whatsoever, with the Bureau or for a related
25 endorsement with the Board of Barbering and Cosmetology in the State of California, then the
26 Bureau shall treat it as a new application for licensure. Respondent shall comply with all laws,
27 regulations, and procedures for licensure in effect at the time the application is filed. All charges
28 and allegations contained in Statement of Issues No. 1000396 shall be deemed to be true, correct,

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

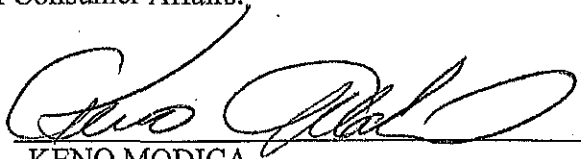
3 4. Respondent admits that he failed to submit Annual Fees to the Bureau by October 1,
4 2012, and October 1, 2013, October 1, 2014, and October 1, 2015. Respondent Keno Modica,
5 owner of Moler Barber College, is liable for payment of the delinquent Annual Fees to the
6 Bureau prior to issuance of any approval for a new license, certificate, registration, approval,
7 institution code number, or any type of authorization whatsoever, by the Bureau.

8 6. Respondent admits that he failed to submit to the Bureau, the assessment collected from
9 students for the Student Tuition Recovery Fund ("STRF") for the fourth quarter in 2013, and for
10 all quarters in 2014. Respondent is liable for payment of the full amount of the delinquent STRF
11 assessments to the Bureau prior to issuance of a new license, certificate, registration, approval,
12 institution code number, or any type of authorization whatsoever, by the Bureau.

13 ACCEPTANCE

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

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20 DATED: 02-16-16


21 KENO MODICA
22 OWNER OF MOLER BARBER COLLEGE
23 Respondent
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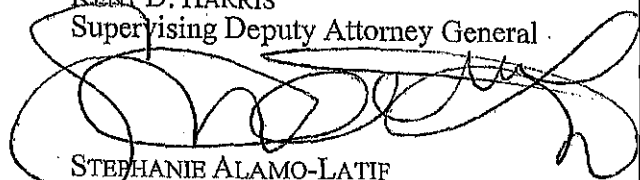
ENDORSEMENT

The foregoing Stipulated Surrender of Approval to Operate and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 2/16/2016

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**

In the Matter of the Statement of Issues

Case No. 1000396

Against:

OAH No. 2015100780

**MOLER BARBER COLLEGE; KENO MODICA,
Owner**

ORDER OF DECISION

Applicant for Renewal of Approval to Operate
and Offer Educational Programs For Non-
Accredited Institutions

Institution Code: 3400961

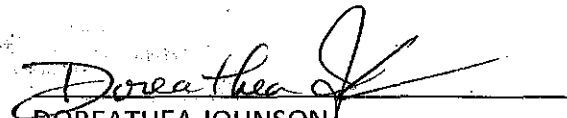
Respondent.

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 above entitled matter.

The Decision shall become effective APR 22 2016.

DATED: MAR 15 2016


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs