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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:

Case No. 1000186

13 **BAYVIEW BARBER COLLEGE;**
14 **DWAYNE C. ROBINSON, Owner**

STATEMENT OF ISSUES

15 **Application for Approval to Operate an**
16 **Institution Non-Accredited**

Respondent.

17 **Institution Code 3805971**
18

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about December 23, 2011, the Bureau for Private Postsecondary Education
25 (Bureau) received an Application for Approval to Operate an Institution Non-Accredited
26 (application number 24368) from Bayview Barber College; Dwayne C. Robinson, owner
27 (Respondent). On or about September 28, 2012, the Bureau issued Respondent a deficiency
28

1 letter. On or about November 7, 2012, the Bureau received from Respondent a response to its
2 September 28, 2012 letter.

3 3. On or about December 17, 2012, the Bureau issued Respondent an additional
4 deficiency letter. On or about March 8, 2013, the Bureau received a response from Respondent.

5 4. On or about May 14, 2013, the Bureau issued Respondent an additional deficiency
6 letter. On or about August 16, 2013, the Bureau received a response from Respondent.

7 5. On or about October 21, 2013, the Bureau issued Respondent an additional deficiency
8 letter. On or about December 24, 2013, the Bureau received a response from Respondent.

9 6. On or about March 24, 2014, the Bureau issued Respondent an additional deficiency
10 letter. On or about May 27, 2014, the Bureau received a response from Respondent.

11 7. On or about June 5, 2014, the Bureau received an email from Respondent inquiring
12 into the status of its application. On or about July 7, 2014, the Bureau issued Respondent an
13 Intent to Approve Letter. On or about July 21, 2014, the Bureau received a response from
14 Respondent. On or about October 9, 2014, the Bureau issued Respondent a Notice of Denial of
15 Application for Approval to Operate. On or about December 12, 2014, Respondent provided the
16 Bureau with a letter requesting an administrative hearing.

17 JURISDICTION

18 8. This Statement of Issues is brought before the Director of the Department of
19 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
20 authority of the following laws. All section references are to the Education Code unless
21 otherwise indicated.

22 STATUTORY & REGULATORY PROVISIONS¹

23 9. Code section 94891(b) states:

24 “(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its
25 continued capacity to meet the minimum operating standards.”

26
27 ¹ The California Private Postsecondary Education Act of 2009 was recently amended, effective
28 January 1, 2015. See Senate Bill No. 1247. This Statement of Issues is based on the pre-
amendment version of the Act.

1 10. Code section 94899 states:

2 “If an institution offers an educational program in a profession, occupation, trade, or career
3 field that requires licensure in this state, the institution shall have an educational program
4 approval from the appropriate state licensing agency to conduct that educational program in order
5 that a student who completes the educational program, except as provided in Section 94905, is
6 eligible to sit for any required licensure examination.”

7 11. Code of Regulations, title 5, section 71700 states:

8 “The Bureau may request that an institution document compliance with the standards set
9 forth in the Act and this Division to obtain and maintain an approval to operate.”

10 12. Code of Regulations, title 5, section 71745, subdivision (a), states, in part:

11 “(a) The institution shall document that it has at all times sufficient assets and financial
12 resources to do all of the following:

13 “...

14 “(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the
15 end of the most recent fiscal year when using generally accepted accounting principles, or for an
16 institution participating in Title IV of the federal Higher Education Act of 1965, meet the
17 composite score requirements of the U.S. Department of Education. For the purposes of this
18 section, current assets does not include: intangible assets, including goodwill, going concern
19 value, organization expense, startup costs, long-term prepayment of deferred charges, and non-
20 returnable deposits, or state or federal grant or loan funds that are not the property of the
21 institution but are held for future disbursement for the benefit of students. Unearned tuition shall
22 be accounted for in accordance with general accepted accounting principles.

23 13. Code of Regulations, title 5, section 71810, subdivision (b), states, in part:

24 “(b) The catalog shall contain the information prescribed by Section 94909 of the Code and
25 all of the following:

26 “...

27 //////

28 //////

1 “(6) The institution's policies and practices regarding any form of financial aid, including
2 all consumer information which the institution is required to disclose to the student under any
3 state or federal financial aid program;

4”

5 **CAUSES FOR DENIAL OF APPLICATION**

6 **FIRST CAUSE FOR DENIAL OF APPLICATION**

(Financial Resources and Statement)

7 (Cal. Educ. Code § 94891, subd. (b); Cal. Code Regs., title 5, § 71745, subd. (a)(6))

8 14. Respondent’s application is subject to denial because it failed to maintain a ratio of
9 current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal
10 year when using generally accepted accounting principles. (Cal. Educ. Code § 94891, subd. (b);
11 Cal. Code Regs., title 5, § 71745, subd. (a)(6)). In particular, on July 21, 2014, Respondent
12 submitted reviewed financial statements for the year ending December 31, 2013 and the five-
13 month period ending May 31, 2014. The financial statements showed a ratio of current assets to
14 current liabilities of less than 1.25 to 1.00, and are therefore not compliant.

15 **SECOND CAUSE FOR DENIAL OF APPLICATION**

(Catalog)

16 (Cal. Educ. Code § 94891, subd. (b); Cal. Code Regs., title 5, § 71810, subd. (b)(6))

17 15. Respondent’s application is subject to denial because Respondent failed to provide a
18 detailed and consistent policy regarding the in-house payment program in its proposed catalog.
19 (Cal. Educ. Code § 94891, subd. (b); Cal. Code Regs., title 5, § 71810, subd. (b)(6)). In
20 particular, page 4 of Respondent’s proposed catalog states: “Ten (10) equal monthly payments
21 totaling \$6,000 . . . Your payment schedule will be \$611.11 each month, until paid in full.” The
22 proposed catalog does not disclose the reason for the additional \$11.11 per month.

23 **THIRD CAUSE FOR DENIAL OF APPLICATION**

(Board of Barbering and Cosmetology Approval Required)

24 (Cal. Educ. Code §§ 94891, subd. (b), and 94899)

25 16. Respondent’s application is subject to denial because Respondent proposes to offer
26 “an educational program in a profession, occupation, trade, or career field that requires licensure”
27 in California but Respondent has not obtained approval from the appropriate state licensing
28


1 agency, the Board of Barbering and Cosmetology. (Cal. Educ. Code §§ 94891, subd. (b), and
2 94899).

3 P R A Y E R

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Director of the Department of Consumer Affairs issue a
6 decision:

- 7 1. Denying the Application for an Approval to Operate an Institution Non-Accredited of
8 Bayview Barber College; Dwayne C. Robinson, owner; and
9 2. Taking such other and further action as deemed necessary and proper.

10 DATED: 3/16/19

11 
12 JOANNE WENZEL
13 Chief
14 Bureau for Private Postsecondary Education
15 Department of Consumer Affairs
16 State of California
17 Complainant

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