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

In the Matter of the Accusation Against:

Case No. 1001841

**THE COSMO FACTORY  
COSMETOLOGY ACADEMY; JAMES  
FISHER, OWNER**  
131 B Front Street  
Santa Cruz, CA 95060

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**Approval to Operate an Institution Non-  
Accredited, Institution Code Number  
98311708**

Respondent.

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**FINDINGS OF FACT**

1. On or about March 3, 2020, Complainant Dr. Michael Marion, Jr., in his official capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs, filed Accusation No. 1001841 against The Cosmo Factory Cosmetology Academy; James Fisher, Owner (Respondent) before the Director of the Department of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about October 13, 2011, the Bureau issued Approval to Operate an Institution Non-Accredited, Institution Code Number 98311708 to Respondent.

3. On or about March 4, 2020, Respondent was served by Certified Mail copies of the Accusation No. 1001841, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Bureau. Respondent's address of record was and is: 131 B Front Street, Santa Cruz, CA 95060.

1           4.    Service of the Accusation was effective as a matter of law under the provisions of  
2 Government Code section 11505(c) and/or Business and Professions Code section 124.

3           5.    Government Code section 11506(c) states, in pertinent part:

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

9           6.    The Bureau takes official notice of its records and the fact that Respondent failed to  
10 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore  
11 waived his right to a hearing on the merits of Accusation No. 1001841.

12           7.    California Government Code section 11520(a) states, in pertinent part:

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

17           8.    Pursuant to its authority under Government Code section 11520, the Director finds  
18 Respondent is in default. The Director will take action without further hearing and, based on the  
19 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
20 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
21 therein on file at the Director's offices regarding the allegations contained in Accusation No.  
22 1001841, finds that the charges and allegations in Accusation No. 1001841, are separately and  
23 severally, found to be true and correct by clear and convincing evidence.

24           9.    The Director finds that the actual costs for Investigation and Enforcement are  
25 \$6,297.50 as of April 3, 2020.

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**DETERMINATION OF ISSUES**

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2           1.    Based on the foregoing findings of fact, Respondent The Cosmo Factory  
3 Cosmetology Academy; James Fisher, Owner has subjected his Approval to Operate an  
4 Institution Non-Accredited No. Institution Code Number 98311708 to discipline.

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

6           3.    The Director of the Department of Consumer Affairs is authorized to revoke  
7 Respondent's Approval to Operate an Institution Non-Accredited based upon the following  
8 violations alleged in the Accusation which are supported by the evidence contained in the Default  
9 Decision Investigatory Evidence Packet in this case:

10           a.    Failure to Comply with Orders of Abatement (Cal. Code of Regs., title 5, §  
11 75050, subd. (b).)

12           b.    Failure to Pay Annual Fee (Cal. Code Regs., title 5, § 74000, subd. (e).)

13           c.    Operating without Barbering and Cosmetology Approval (Educ. Code §  
14 94899).

15           d.    Disciplinary Considerations. On or about September 5, 2019, in a prior action,  
16 and pursuant to Stipulated Settlement and Withdrawal of Accusation and Issuance of Citation No.  
17 1920063, the Bureau issued Citation No. 1920063. Respondent did not contest this citation,  
18 failed to comply with the orders of abatement, and paid only \$1,658.34 of the fine ordered by the  
19 Bureau, amounting to \$9,949.99.

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ORDER

IT IS SO ORDERED that Approval to Operate an Institution Non-Accredited No. Institution Code Number 98311708, issued to Respondent The Cosmo Factory Cosmetology Academy; James Fisher, Owner, is revoked.

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

This Decision shall become effective on AUG 09 2020

It is so ORDERED July 6, 2020



**RYAN MARCROFT  
DEPUTY DIRECTOR  
LEGAL AFFAIRS DIVISION  
DEPARTMENT OF CONSUMER AFFAIRS**

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Attachment:  
Exhibit A: Accusation