



MODIFIED CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Jeff Malmuth, Owner
ILearn Institute
870 Market Street, Ste 446
San Francisco, CA 94102

INSTITUTION CODE: Unapproved
CITATION NUMBER: 1819060
CITATION ISSUANCE/SERVICE DATE: November 29, 2018
DUE DATE: March 8, 2019

FINE AMOUNT: \$ 100,000.00

ORDER OF ABATEMENT INCLUDED: Yes

MODIFIED CITATION ISSUANCE/SERVICE DATE: February 11, 2019
MODIFIED DUE DATE: STAYED PENDING APPEAL OR WITHDRAWAL OF HEARING REQUEST

MODIFIED FINE AMOUNT: \$ 25,000.00

ORDER OF ABATEMENT INCLUDED: Yes

Beth Scott issues this Modified Citation: Assessment of Fine and Order of Abatement (Modified Citation) in her official capacity as Enforcement Chief for the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Modified Citation is hereby issued to Jeff Malmuth, Owner of ILearn Institute (Institution) located at 870 Market Street, Ste 446, San Francisco, CA 94102 pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94944 and the sections referenced below; and Title 5 of the California Code of Regulations (5, CCR) sections 75020 and 71395 for the violation described below.

BACKGROUND

On November 17, 2005, the Institution received an Approval to Operate a private postsecondary institution from the Bureau.

On June 29, 2016, the Bureau approved the Institution's Application for Verification of Exempt Status pursuant to California Education Code (CEC) section 94874(f). Section 94874(f), states, in pertinent part:

(f) An institution that does not award degrees and that solely provides educational programs for total charges of two thousand five hundred dollars (\$2,500) or less when no part of the total charges is paid from state or federal student financial aid programs. CEC section 94870 defines "total charges" to

mean “the sum of institutional and noninstitutional charges.” CEC section 94844 defines “institutional charges” to mean “charges for an educational program paid directly to an institution.”

In its Application for Verification of Exempt Status, the Institution was asked to provide a statement that includes the “total institutional charges for the educational program.” The institution stated that “all program costs fall...below the [\$2,500] threshold.”

In June and August of 2018, the Bureau received complaints that the Institution was providing educational programs for total charges of over \$2,500. A review of some of the Institution’s invoices and enrollment agreements confirm that the Institution was offering educational programs for total charges in excess of two thousand five hundred dollars (\$2,500) by charging \$1,000 for computer equipment for the educational program(s).

Accordingly, the Institution was operating outside of the parameters of the exemption in CEC section 94874(f), and thus was not an exempt institution.

VIOLATION(S)

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5, CCR code) section(s) of law you are charged with violating.
1.	<p><u>MODIFIED</u></p> <p><u>Violation:</u></p> <p>CEC Section 94886. Approval to Operate Required <i>“Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter.”</i></p> <p>CEC Section 94817.5. Approved to Operate or Approved <i>“Approved to operate” or “approved” means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs.”</i></p> <p>CEC Section 94868. To Offer to the Public <i>“To offer to the public” means to advertise, publicize, solicit, or recruit.”</i></p> <p>CEC Section 94869. To Operate <i>“To operate” means to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided.”</i></p> <p>As discussed above, Bureau staff received and reviewed student enrollment agreements and invoices created by the Institution that confirmed that its “total charges” for an educational program exceeded \$2,500. Thus, the Institution was operating outside the parameters of its exemption, and it was required to obtain an approval to operate from the Bureau.</p> <p><u>Order of Abatement:</u> The Bureau orders that the Institution discontinue charging institutional fees (which include charges for equipment, such as computers) totaling more than \$2,500 for each educational program.</p>

The Bureau orders the Institution to apply for an approval to operate with the Bureau if it intends to charge more than a total of \$2,500 for institutional charges for each educational program.

The Institution must provide the Bureau with written confirmation that it has and will comply with this Order of Abatement.

Assessment of Fine

The fine for this violation is \$25,000.00

TOTAL ADMINISTRATIVE FINE DUE: \$25,000.00

ASSESSMENT OF A FINE

In accordance with 5, CCR section 75020(b), the Bureau hereby orders this assessment of a fine in the amount of **\$25,000.00** for the violation(s) described above. **Payment of the fine is stayed pursuant to 75040(f) due to the Institution's submission of a written request for a hearing pursuant to section 94936(c)(2) of the Education Code.**

COMPLIANCE WITH ORDER OF ABATEMENT

In accordance with the provisions of 5, CCR section 75020 (b) the Bureau hereby issues the order(s) of abatement described above. **Compliance with the order(s) of abatement is stayed due to the Institution's submission of a written request for a hearing pursuant to section 94936(c)(2) of the Education Code.**

APPEAL OF MODIFIED CITATION

You have already contested this Modified Citation through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If you wish to withdraw your request for an administrative hearing, the Bureau asks that you inform it *within 30 days from the service of the Modified Citation*, using the attached form.

EFFECTIVE DATE OF MODIFIED CITATION

Since a hearing was requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you subsequent to an administrative hearing, or until 30 days after receipt by the Bureau of the withdrawal of your request for an administrative citation.

Payment of the administrative fine, abatement compliance evidence, and/or a written request for withdrawal of the administrative appeal must be mailed to:

Gurinder Sandhu, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Gurinder Sandhu, Citation Analyst, at 916-431-6940 or Gurinder.Sandhu@dca.ca.gov.

Beth Scott

Beth Scott
Enforcement Chief

2/11/19
Date

Enclosures

- Payment of Fine – Waiver of Appeal
- Withdrawal-Request for Administrative Hearing
- Declaration of Service by Certified and First-Class Mail