



Bureau for Private Postsecondary Education
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APPEAL OF CITATION INFORMAL CONFERENCE
DECISION: CITATION MODIFIED

October 8, 2020

Luong Jimmy Investment, Inc., Owner
International College of Cosmetology
3701 International Boulevard
Oakland, CA 94601

Date of Issuance	Citation Number	Institution Code
October 8, 2020	2021055	0106481

On September 24, 2020, an informal telephone conference was held in the matter of Citation: Assessment of Fine and Order of Abatement No. 2021055 (Citation) against Luong Jimmy Investment Inc., Owner of International College of Cosmetology (Institution). In attendance were Leeza Rifredi, Deputy Bureau Chief, Luong Jimmy Investment Inc, Owner, Hal Du Biel Site Supervisor, Jimmy Luong, Director, and Lai Le, Financial Advisor.

Pursuant to Business and Professions Code, section 125.9; California Education Code, section 94936; and Title 5 of the California Code of Regulations, section 75020 and section 75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 2021055.

It is the decision of the Deputy Bureau Chief that on September 24, 2020, Citation No. 2021055 is modified and makes the following change(s):

VIOLATION CODE SECTIONS

#	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>Violation:</u> 5, CCR Section 76130 (a-e)– Collection and Submission of Assessments <i>“(a) A qualifying institution shall collect the assessment from each student in an educational program at the time it collects the first payment from or on behalf of the student at or after enrollment. The assessment shall be collected for the entire period of enrollment, regardless of whether the student pays the institutional charges in increments.</i> <i>(b) A qualifying institution shall complete the STRF Assessment Reporting Form (Rev. 2/10) and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:</i> <i>(1) April 30 for the first quarter,</i> <i>(2) July 31 for the second quarter,</i> <i>(3) October 31 for the third quarter, and</i> <i>(4) January 31 for the fourth quarter. If the due date falls on a Saturday, Sunday or State or federal</i></p>

holiday, the due date shall be extended to the next regular business day for the Bureau. If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau.

(c) The STRF Assessment Reporting Form shall contain the following information:

(1) Total number of students who signed enrollment agreements for educational programs during the reporting period; and

(2) Total number of students eligible for STRF who signed enrollment agreements for educational programs during the reporting period; and

(3) The total number of students who signed their enrollment agreement during the reporting period, were eligible for STRF, and who made their first payment during the reporting period; and

(4) The total number of students who signed their enrollment agreement in a previous reporting period, were eligible for STRF, and who made their first payment during the current reporting period; and

(5) Total amount of institutional charges after rounding each student's institutional charges to the nearest \$1,000, for all eligible STRF students whose STRF assessment was collected in the reporting period; and

(6) Current contact telephone number of the person preparing the form; and

(7) A declaration dated and signed under penalty of perjury by the person preparing the form that the form and any attachments are true and correct.

(d) In the event of a school closure, any collected assessments shall be remitted to the Bureau within seven days following the cessation of instruction.

(e) Submission of all prior reports and assessments required by this section is a condition of renewal."

The Institution has failed to submit STRF Assessment Reporting Form for the following quarter:

- Third Quarter of 2018.

On September 18, 2018, the Institution was notified via mail at, 3701 International Boulevard, Oakland, CA 94601, that the STRF Assessment Reporting Form for the 3rd quarter of 2018 was due. As of August 20, 2020, the Bureau has not received the STRF Assessment Reporting Form from the Institution.

Order of Abatement:

The Bureau orders that the Institution submit the delinquent STRF Assessment Reporting Forms with the STRF Assessments collected from students for the quarters listed above. The information provided shall comply with "Record Keeping Requirements" Pursuant to 5, CCR section 76140.

Reason for modification: New substantive facts were presented at the conference. The Order of Abatement has been satisfied

Assessment of Fine

The fine for this violation is \$50.00

The administrative fine for this violation has been modified from \$50.00 to \$00.00

2.

Violation:

5, CCR Section 71770 (a)(1) - Admissions Standards and Transferred Credits Policy.

"(a) The institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a

reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify as applicable that:
(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant examination as required by section 94904 of the Code.”

CEC Section 94904 (a)(b) - Ability to Benefit Students

“(a) Except as provided in subdivision (c), before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed by the United States Department of Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.). The student shall not enroll unless the student achieves a score, as specified by the United States Department of Education, demonstrating that the student may benefit from the education and training being offered.

“(b) If the United States Department of Education does not have a list of relevant examinations that pertain to the intended occupational training, the bureau may publish its own list of acceptable examinations and required passing scores.”

Bureau staff reviewed student files and found that files failed to include verification of high school completion, equivalency, or other documentation establishing the student’s ability to do college level work, such as a successful completion of an Ability to Benefit (ATB) exam upon admission. Instead, the Institution allowed students to take a 225-hour course followed by an exam in place of a high school diploma or ATB exam. Additionally, the Institution administered their own unapproved ATB exams to students without Bureau approval.

Order of Abatement:

The Bureau orders the Institution to submit an established policy, or procedure, of how the Institution will come into compliance with, CCR section 71770(a)(1) and CEC section 94904(a)(b). In addition, the Bureau orders the Institution to submit the name of the ATB exam they would like to administer to incoming students and obtain Bureau approval.

Reason for modification: New substantive facts were presented at the conference. The Order of Abatement has been satisfied

Assessment of Fine

The fine for this violation is \$5,000.00

The administrative fine for this violation has been modified from \$5,000.00 to \$500.00

TOTAL MODIFIED ADMINISTRATIVE FINE DUE: \$500.00

PENALTY – ASSESSMENT OF A FINE

Payment of the administrative fine is due within 30 days from the date of this decision. Please complete the Payment of Fine form. Payment must be made to the Bureau by check, or money order. Please include the citation number on the payment of the fine assessment. Payment of the administrative fine shall not constitute an admission of the violation(s) charged and shall be represented as satisfactory resolution of the matter for purposes of public disclosure. Payments may be mailed to:

Nicole Mitchell, Discipline Citation Program
Bureau for Private Postsecondary Education
1747 N. Market Blvd., Suite 225
Sacramento, CA 95834

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this modified Citation. If you did not initially request an Administrative Hearing within 30 days from when the original citation was issued, you can no longer request one.

EFFECTIVE DATE OF CITATION AND FINE ASSESSMENT

This modified Citation is effective on October 8, 2020. The payment is due by **November 7, 2020**.

Failure to pay the administrative fine within the time allowed is grounds for denial of an application for an approval to operate or discipline. The Bureau will promptly take all appropriate action to enforce the Modified 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 decision or desire further information, please contact Nicole Mitchell, Citation Analyst, at (916) 574-8995 or at Nicole.Mitchell@dca.ca.gov.

“Original Signature on File”

“10/8/2020”

Christina Villanueva
Discipline Manager

Date

Enclosures

- Payment of Fine – Waiver of Appeal Rights
- Declaration of Service by Certified and First-Class Mail