



Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833
P.O. Box 980818, West Sacramento, CA 95798-0818
P (916) 431-6959 F (916) 263-1897 www.bppe.ca.gov



CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Ruby Polanco
Ruby Makeup Academy
4808 S. Baldwin Avenue
Temple City, CA 91780

INSTITUTION CODE: Unapproved
CITATION NUMBER: 1718052
CITATION ISSUANCE/SERVICE DATE: July 13, 2018
DUE DATE: August 12, 2018
FINE AMOUNT: \$5,000.00
ORDER OF ABATEMENT INCLUDED: YES

Christina Villanueva issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Discipline Manager for the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to Ruby Polanco, Owner of Ruby Makeup Academy (Institution) located at 4808 S. Baldwin Avenue, Temple City, CA 91780 pursuant to Business and Professions Code section 125.9 and 149; California Education Code (CEC) section 94944; and Title 5 of the California Code of Regulations (5 CCR) section 75020 for the violation(s) described below.

BACKGROUND

On July 15, 2015, the Department of Consumer Affairs Citizen Complaint System received a complaint from J.M. against the Institution. On July 22, 2015, this complaint was forwarded to the Bureau. In 2013, the Institution adjusted their program pricing to fall within a category of exemption under CEC section 94874(f). Prior to falling within the exemption category in 2013, the Institution was operating as an unapproved school in violation of CEC section 94886. During this time, on October 21, 2012, student J.M. was enrolled into the Institution's Mastery Makeup program and charged a tuition fee in the amount of \$10,740.00. Since the Institution was operating unapproved at the time of J.M.'s enrollment and did not qualify under an exemption category, J. M.'s enrollment agreement is not enforceable per CEC section 94902, General Enrollment Requirements. On March 7, 2016, the Institutions Attorney, K.T., stated that the Institution would only reimburse J.M. \$1,600.00 based on the Institution's current pricing structure. The Bureau informed K.T. that a refund must be calculated based on the agreed upon amount at the time of enrollment and cannot be adjusted based on the Institutions current pricing structure. As of July 13, 2018, the Institution has not responded to the Bureau's requests to issue a refund to the student.

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>Violation:</p> <p>CEC 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 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 94868. To Offer to the Public <i>"To offer to the public" means to advertise, publicize, solicit, or recruit."</i></p> <p>CEC 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>Article 11 Added by Stats. 2009, Ch. 310, §6. (AB 48)</p> <p>CEC 94902. General Enrollment Requirements <i>(a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution. (b) An enrollment agreement is not enforceable unless all of the following requirements are met: (1) The student has received the institution's catalog and School Performance Fact Sheet prior to signing the enrollment agreement. (2) At the time of the execution of the enrollment agreement, the institution held a valid approval to operate. (3) Prior to the execution of the enrollment agreement, the student and the institution have signed and dated the information required to be disclosed in the Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of Section 94910. Each of these items in the Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student. (c) A student shall receive a copy of the signed enrollment agreement, in writing or electronically, regardless of whether total charges are paid by the student.</i></p> <p>On July 15, 2015, the Department of Consumer Affairs Citizen Complaint System received a complaint from student J.M. against the Institution.</p> <p>On July 22, 2015, this complaint was forwarded to the Bureau.</p> <p>On December 9, 2015, the Bureau received a copy of the students file from the Institution. Based on the student file, the Bureau determined that J.M. enrolled into the Institution's Mastery Makeup course on October 21, 2012, for \$10, 740.00. Student J.M. enrolled prior to the Institution adjusting their program pricing to fall within a category of exemption in 2013.</p>

From February 29, 2016 to April 7, 2016, the Bureau attempted to mediate a refund on behalf of J.M.

On March 7, 2016, the Institutions Attorney, K.T., stated that the Institution would only refund J.M. \$1,600.00 based on the Institutions current pricing structure.

On March 7, 2016, the Bureau informed the Institution via email that J.M.'s enrollment agreement was not valid at the time of enrollment and therefore a refund must be calculated based on the agreed upon amount at the time of enrollment and cannot be adjusted based on the Institutions current pricing structure.

On April 5, 2016, K.T. requested a conference call with the Bureau to mediate the complaint.

On April 7, 2016, the Bureau agreed to a conference call with the Institution and K.T. The conference call was scheduled for April 8, 2016.

On April 7, 2016, K.T. cancelled the conference call with the Bureau.

On May 5, 2016, the Bureau sent an email to K.T. and the Institution to follow up with the mediation of J.M.'s complaint. As of July 13, 2018, the Bureau has not received a response.

Order of Abatement:

The Bureau orders that the Institution refund J.M. the total tuition of \$10,740.00, as outlined on J.M.'s October 21, 2012, enrollment agreement. The Institution was operating as an unapproved institution and did not fall within a category of exemption; therefore, the enrollment agreement was not valid at the time of enrollment. Additionally, the Bureau orders the Institution to submit proof of refund to the Bureau.

Assessment of Fine

The fine for this violation is \$5,000.00

TOTAL ADMINISTRATIVE FINE DUE: \$5,000.00

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. In accordance with Business and Professions Code section 149, the Bureau may disconnect any telephone service numbers used by an unapproved Institution. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or 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 contest this Citation, you must submit the 'Notice of Appeal of Citation - Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date

of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **August 12, 2018** you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **July 13, 2018**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **August 12, 2018**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for 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.



Christina Villanueva
Discipline Manager

7/13/18
Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First-Class Mail