

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

In the Matter of the Citation Against:

**ADROIT SCHOOL OF ARCHITECTURE,**

**AMBREEN KAZMI, OWNER, MUTAHIR KAZMI, OWNER**

315 12<sup>th</sup> Street

Sacramento, CA 95814

Citation No.: 1920108

Case No. 1005115

OAH Case No.: 2020020108

Respondent.

**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on February 6, 2021.

It is so ORDERED December 29, 2020.

“Original Signature on File”

RYAN MARCROFT

DEPUTY DIRECTOR, LEGAL AFFAIRS DIVISION

DEPARTMENT OF CONSUMER AFFAIRS

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**Respondent**

**Agency Case No. 1005115**

**OAH No. 2020020108**

**PROPOSED DECISION**

John E. DeCure, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California; heard this matter telephonically/audio-visually on October 7, 2020, in Sacramento, California.

Brent O. Jex, Deputy Attorney General, represented complainant Dr. Michael .Marion, Jr., Chief, Bureau for Private Postsecondary Education (Bureau).

Appellant Adroit School of Architecture (Adroit), Ambreen Kazmi and Mutahir Kazmi, owners, was represented by Ambreen Kazmi.

Oral and documentary evidence was received, The record was closed and the matter was submitted for decision on October 7, 2020.

## FACTUAL FINDINGS

### Jurisdictional Matters

1. On October 24, 2014, the Bureau approved respondent's application for an Approval to Operate an Institution Non-Accredited (application), and issued Institutional and Program Approvals for Adroit to offer degrees in Bachelor of Architecture, Master of Architecture I, and Master of Architecture II programs.

2. On October 11, 2019, the Bureau issued Citation No. 1920108 (citation) to respondent for violation of California Education Code section 94932.5, subdivision (a) (failure to comply with Bureau's unannounced inspection of institution), and Title 5, California Code of Regulations section 71930, subdivision (e) (institution's records to be made available for Bureau's immediate inspection during normal business hours). The citation included an administrative fine in the amount of \$5,000, due and payable within 30 days. The citation further included an order of abatement requiring respondent to submit an established policy or procedure that identifies how personnel will be present during normal business hours to allow the Bureau to inspect **all** required records.

3. Respondent timely appealed the citation on November 3, 2019, requesting an informal conference and administrative hearing. On November 15, 2019, the Bureau conducted a telephonic informal conference. Following the conference, the Bureau reissued the citation based on the same violations, but reduced the

administrative fine to \$1,000. Respondent requested an administrative hearing and this matter followed,

## **Violations**

4, The violations alleged in the citation are essentially undisputed. On June 3, 2019, at approximately 9:30 a.m., Bureau Compliance Inspector Tiffany Moore and another Bureau employee attempted to conduct an unannounced onsite compliance inspection of Adroit, which was located in a building at 315 12th Street in Sacramento. The school's doors were locked and no one was present. Ms. Moore, who testified at hearing, attempted to contact Ambreen Kazmi by phone, but was unsuccessful and left a message requesting a return call. Ms. Moore later visited the school's website and discovered that Adroit was currently out of session for the summer, and the fall semester would begin on August 29, 2019,

5, On Tuesday, September 10, 2019, at approximately 9:30 a.m., Ms. Moore returned to Adroit's 12th Street building and attempted to conduct an unannounced compliance inspection. Ms. Moore noted a "for sale" sign on the building. No one was present, but when Ms. Moore looked in the school's windows, the setting appeared appropriate for instruction. The front door was locked, and the enclosed parking lot behind the school was empty. Ms. Moore later visited Adroit's website and noted the "Semester Administrative Hours" were listed as 9:00 a.m. to 12:00 p.m., Tuesday through Friday. She called the school's phone number and left a message requesting a return call. She also called the phone number provided for the school's contact/owner, but the person who answered informed her it was a wrong number. Ms. Moore returned to her car and waited an hour to provide Ms. Kazmi time to return her call. But Ms. Kazmi did not return the call, and Ms. Moore left the school at approximately 10:30 a.m.

6. On Friday, September 13, 2019, Ms. I(azmi phoned Ms. Moore and informed her that Adroit was not in session, would no longer be offering degree programs, and if possible, would like to focus on non-degree courses only. Ms. I(azmi stated that the last degree-granting class had graduated, and there were currently no students enrolled in any programs, so there should be no need for a "teach out" Ms. Moore advised Ms. I(azmi to contact the Bureau's licensing unit in order to make changes to the school's approved programs.

7. Ms. Moore prepared ,<md submitted an "Unannounced Compliance Summary Report" to her Bureau compliance manager describing the above-stated facts and circumstances. However, she does not actually issue citations and fines and, accordingly, did not do so for this case.

### **Respondent's Evidence**

8. On November 8, 2019, Ms. Kazmi sent an email to the Bureau outlining respondent's reasons for appealing the citation:

1. The Adroit School of Architecture had informed the department of closure on September 10, 2019 and requested guidance forms for filing formal closure. We had then received the closure forms on September 16, 2019.

2. The closure forms were filed on October 16, 2019.

3. We have been in contact with BPPE staff throughout the closure process: Margaret Christian, Staff Services Analyst, Closed Schools - Compliance Unit, Department of Consumer Affairs, .. ,

4, The citation ... is dated October 11, 2019, We received the notice on October 16, 2019 after the closure paperwork was filed, The school had already informed the department of closure.

5. We feel that the citation should be waived or canceled as BPPE failed to communicate internally with its various departments. Adroit is a faculty owned school. We feel this citation unduly burdens educators that have financially struggled to keep the school open in order to graduate its enrolled students. The owners of the school have personally incurred over \$5.00,000 [of] losses in wages, building improvements, and equipment. We heavily marketed the school for five years but all our efforts to improve enrollment failed and the school is forced to close.

9. Ms. Kazmi testified consistent with the comments in her November 8, 2019 email, emphasizing that she took action immediately following Ms. Moore's contact. Ms. Kazmi contacted the Bureau's Closure Department on September 10, 2019, and requested the Bureau send her the proper paperwork so she could close Adroit down, She had personally invested approximately \$500,000 into Adroit, but the school had never made a profit and consistently lost money. Only three students enrolled during the 2018-2019 academic year, and those students successfully completed their programs and graduated in April 2019. By September 2019, no new students had enrolled, and Ms. Kazmi, who was personally paying all ongoing building and school expenses while never taking a salary, could no longer justify the financial losses she was incurring to keep the school open. Although Ms. Kazmi had considered

the possibility of offering non-degree programs, the lack of any new or potential students compelled her to close the school.

10. Ms. Kazmi appreciates the Bureau's mission and the fact that it reduced the administrative fine to \$1,000. However, she supports three children, experienced tremendous financial losses while operating Adroit, and would have difficulty paying even a reduced fine, She swiftly closed down the school .after Ms. Moore contacted her, and asserted she had always "acted in good faith" toward students and the Bureau. She noted that no students were misled, shortchanged, or harmed in any way, While she admits the violations in the citation, .she respectfully asks the Bureau to .further reduce the fine due to her difficult circumstances,

## **Analysis**

11, The Bureau established the violations giving rise to the citation, The evidence also established that at the time Ms. Moore attempted an unannounced inspection, Adroit was not operating and was on the *verge* of closing its doors due to ongoing financial losses and a total absence of newly, enrolled students, In fact, respondent-i;wb.mitteGl-its-Gl05Hfe-j:nljSefweFl -t0-the-B1aFet11a-before-the-citatioffwas· ----- issued. The only question is whether the \$1,000 fine is justified or should be reduced,

12. On one hand, the Bureau argued that it already considered Ms. Kazmi's mitigating circumstances and, accordingly, reduced the fine by \$4,000. On the other, Ms, Kazmi credibly attested that Adroit has lost money due to a combination of high costs and .lack of enrollment, leading to its closure and leaving her in financial distress. Due to her losses,, she contends that a \$1,000 fine is .a "humongous" obligation for her to bear.

13. The Bureau has the discretion to set fines within a specific range depending on a number of factors including the nature and seriousness of the violation, whether the violation is technical in nature, whether mitigation exists, whether one or more violations were committed, and whether the violation may be directly or potentially detrimental to students or potentially impacts their education, Although the Bureau did not articulate what class of violations formed the basis of the citation, the administrative fine it issued falls into a particular dollar range discussed further below. Accordingly, the fine may be reduced due to respondent's financial hardship, while still remaining in the appropriate range of fines th Bureau applied.

## LEGAL CONCLUSIONS

1. In citation cases, complainant has the burden of proving the allegations by a preponderance of the evidence. (*Owen v. Sands* (2009)176 Cal.App.4th 985.) Once the party bearing the burden of proof has made a prima facie case, the burden shifts to respondent, who has the burden of proof of any affirmative defenses, (*Whetstone v. Board of Dental Examiners* (1927) 87 Cal.App. 156,) In this matter, the Bureau had the burden of proving respondent was responsible for the conduct described in the citations. The Bureau met its burden.

2. California Education Code (Code), section 94933, states:

The bureau shall provide an institution with the opportunity to remedy noncompliance, impose fines, place the institution on probation, or suspend or revoke the institution's approval to operate, in accordance with this article, as it deems appropriate based on the severity of an



institution's violations of this chapter, and the harm caused to students.

3. Title 5, California Code of Regulations (Regulation), section 75020, authorizes the Bureau's Chief to issue citations containing orders of abatement and/or administrative fines pursuant to section 94936 of the Code against approved private, postsecondary institutions that have committed any violation of applicable statutes and/or regulations.

4. Regulation, section 75030, states:

Where citations pursuant to section 94936 of the Code and section 75020, subsection (a) include an assessment of an administrative fine, the fine shall be not less than \$50 or exceed \$5,000 for each violation. Each violation shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

(a) A "Class A" violation shall not be less than \$2,501 nor more than \$5,000. A Class A violation is one that the Bureau has, in its discretion, determined to be more serious in nature, deserving the maximum fine. A Class A violation may, in the Bureau's discretion, be issued to an institution that has committed one or *more* prior, separate Class B violations.

(b) A "Class B" violation shall not be less than \$1,001 nor more than \$2,500. A Class B violation is one that the Bureau has, in its discretion, determined to be less serious in nature

and may include, but is not limited to, a violation that could have resulted in student harm. Typically some degree of mitigation will exist. A Class B violation may be issued to an institution that has committed one or more prior, separate Class C violations.

(c) A "Class C" violation shall not be less than \$501 nor more than \$1,000, A Class C violation is one that the Bureau has, in its discretion, determined to be a minor or technical violation, which may be directly or potentially detrimental to students or potentially impacts their education.

(d) A "Class D" violation shall not be less than \$50 nor more than \$500. A Class D violation is one that the Bureau has, in its discretion, determined to be a minor or technical violation, which is neither directly or potentially detrimental to students nor potentially impacts their education.

5. By imposing a \$1,000 fine, the Bureau established the citation as involving a Class C violation. The range of fines for such violations is no less than \$501, and no more than \$1,000. Due to respondent's financial hardship, the violation's technical nature, the lack of evidence that any students were harmed by respondent's violation, and in the interests of justice, the fine should be reduced to the minimum of \$501 for a Class C violation.

## **ORDER**

The citation is AFFIRMED in part, and MODIFIED in part, as follows:

1. Citation No. 1920108, issued to Adroit School of Architecture, Ambri I<azmi and Mutahir I<azmi, owners, is AFFIRMED.

2. The \$1,000 administrative fine issued pursuant to Citation No. 1920108 is MODIFIED and reduced to \$501. Respondent is ordered to repay this amount within 30 days of the effective date of this order, or pursuant to a payment plan wholly within the Bureau's discretion to determine.

DATE: October 22, 2020

DocuSigned by:  
*John DeCure*  
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JOHN - DeCURE

Administrative Law Judge ·

Office of Administrative Hearings