



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: Kaplan, LTD UK
Kaplan International
660 6th Ave, 2nd Floor
San Diego, CA 92101

INSTITUTION CODE: 98908128

CITATION NUMBER: 1718004

CITATION ISSUANCE/SERVICE DATE: October 11, 2017

DUE DATE: November 10, 2017

FINE AMOUNT: \$ 3,050.00

ORDER OF ABATEMENT INCLUDED: YES

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

CITATION

A Citation is hereby issued to Kaplan, LTD UK, Operator of Kaplan International located at 660 6th Ave, 2nd Floor, San Diego, CA 92101 pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violations described below.

BACKGROUND

On June 18, 2014, pursuant to CEC 94932.5, Bureau for Private Postsecondary Education (Bureau) staff conducted an announced compliance inspection at Kaplan International (Kaplan) located at 21 East Victoria Street, Ste 300, Santa Barbara, CA 93101. In 2017 Kaplan subsequently moved to 660 6th Ave, 2nd Floor, San Diego, CA 92101. During the inspection staff identified potential material violations. The inspection revealed that Kaplan recruiters were overseas agents and not employees, which is prohibited and that Kaplan did not collect Student Tuition Recovery Funds (STRF) from international students as required.

On September 5, 2014, Bureau staff requested from Kaplan the 2014 2nd Quarter STRF report that Kaplan submitted to the Bureau. On September 17, 2014, Bureau staff reviewed the documents provided by Kaplan during the compliance inspection, and that were provided upon request. Bureau staff confirmed that Kaplan did not collect STRF from 2,052 international students attending classes in California that were recruited via overseas agents. Per 5, CCR 76000 (g)(h), students attending classes in California and enrolled in a residency program and are therefore subject to requirements of STRF.

On September 22, 2014, Bureau staff interviewed Kaplan's Executive Director of Compliance and Quality Control, Wendy Henderson regarding the two potential material violations identified during the compliance inspection and confirmed Kaplan was not collecting STRF for international students. Henderson stated it was common for institutions and Kaplan to use overseas recruiters. Kaplan disclosed in their 2014 enrollment agreement that the institution utilizes overseas agents to recruit students. Additionally, the Partner Agreement between Kaplan and the overseas agents states that the agents are not Kaplan employees.

VIOLATION

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating.
1.	<p>Violation: 5, CCR 76130 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></p> <p>5, CCR 76120 Amount of STRF Assessment (Prior to January 1, 2015) <i>"(a) Each qualifying institutions shall collect an assessment of fifty cents (\$.50) per one thousand dollars (\$1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars (\$1,000) or less, the assessment is fifty cents (\$.50)."</i></p> <p>5, CCR 76120 Amount of STRF Assessment (As of January 1, 2015) <i>"(a) Each qualifying institution shall collect an assessment of zero dollars (\$0) per one thousand dollars (\$1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars (\$1,000) or less, the assessment is zero dollars (\$0)."</i></p> <p>5, CCR 76000 Definitions <i>(g) "Qualifying institution" is an approved institution that is subject to the provisions of Article 14, commencing with section 94923 of the Code, including out-of-state institutions registered with the Bureau pursuant to section 94801.5 of the Code.</i> <i>(h) "Residency Program" means an educational program as defined in section 94837 of the Code at qualifying institution of which some portion of the instruction occurs as direct instruction as defined in section 71715(c).</i></p> <p>On September 17, 2014, Bureau staff obtained a Kaplan International Enrollment Agreement for the Santa Barbara campus, and verified that foreign students attended classes in California. Bureau staff reviewed the 2014 Enrollment Agreement (Page-5) that stated, "Kaplan utilizes authorized overseas agents to recruit students."</p> <p>On September 22, 2014, Kaplan Executive Director of Compliance and Quality Control, Wendy Henderson stated to Bureau staff that STRF did not apply to foreign students because the students were not California residents. 5, CCR 76120 Amount of STRF Assessment states that institutions</p>

	<p>shall collect STRF from each student in an educational program who is a California resident or is enrolled in a residency program.</p> <p><u>Order of Abatement:</u> The Bureau orders the institution to submit amended STRF Assessment Reporting Forms and supporting data, in accordance with 5, CCR 76120(a). The Bureau orders the institution draft, implement, and submit procedures of how the institution will properly assess and collect STRF fees in compliance with 5, CCR 76130(a).</p> <p><u>Assessment of Fine</u> The fine for this violation is <u>\$2,550.00</u></p>
2.	<p>Violation CEC 94901 Requirements for Recruiters <i>"(a) An institution's recruiters shall be employees."</i></p> <p>On September 17, 2014, Bureau staff obtained a 2014 Kaplan International Enrollment Agreement. Kaplan disclosed in the student Enrollment Agreement that the institution "utilizes authorized overseas agents to recruit students."</p> <p>On September 22, 2014, the Bureau obtained a copy of Kaplan's Partner Agreement that stated the agreement did not create an employee/employer relationship between Kaplan and the overseas agents Kaplan utilizes to recruit foreign students.</p> <p><u>Order of Abatement:</u> Cease using overseas recruiters that are not employees of Kaplan. Provide the Bureau with written recruiting policies, and provide evidence of employment of recruiters.</p> <p><u>Assessment of Fine</u> The fine for this violation is <u>\$500.00</u></p>
<p>TOTAL ADMINISTRATIVE FINE DUE: \$3,050.00</p>	

ASSESSMENT OF A FINE

In accordance with CEC Section 94936; and 5, CCR Sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **\$3,050.00** for the violations described above.

Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.

ORDER OF ABATEMENT

In accordance with the provisions of CEC Section 94936 and 5, CCR Section 75020 the Bureau hereby issues the order(s) of abatement described above. **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 **November 10, 2017**, 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 **October 11, 2017**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **November 10, 2017**. 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, Discipline Analyst, at 916-431-6940 or Gurinder.Sandhu@dca.ca.gov.



Yvette Johnson
Enforcement Chief



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