



Bureau for Private Postsecondary Education
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Robert C. Erwin
Cal-Trade Welding School of Modesto
424 Kansas Ave.
Modesto, CA 95351

INSTITUTION CODE: 5001291

CITATION NUMBER: 1617029

CITATION ISSUANCE/SERVICE DATE: NOVEMBER 30, 2016

DUE DATE: DECEMBER 30, 2016

FINE AMOUNT: \$ 6,001.00

ORDER OF ABATEMENT INCLUDED: YES

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

CITATION

A Citation is hereby issued to Robert C. Erwin, Owner/Operator of Cal-Trade Welding School located at 424 Kansas Ave. Modesto, CA 95351 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 October 19, 2012, the school issued a completion certificate to D.C. indicating the student completed 360 hours of MIG/TIG welding training in the welding qualification areas of 1/16" 4043 Aluminum, 1/8" & 5/32" E-7018, and Innershield.

On March 4, 2015, Bureau staff conducted an unannounced visit to the institution and gathered student records. D.C.'s attendance record sheet and progress reports were reviewed and indicated D.C. completed 301.5 total clock hours; the course D.C. was enrolled in was a 300 clock hour course. Furthermore, D.C.'s MIG/TIG progress reports do not indicate D.C. received training in the TIG (Aluminum) course subject.

Bureau staff reviewed D.C.'s enrollment agreement and found that the course subjects completed and the clock hours for each subject matter were omitted from the agreement. The school also failed to list the course subjects completed and the corresponding clock hours associated with each welding training course on D.C.'s certificate of completion. Bureau staff also reviewed the school's

catalog regarding the course offered to D.C. The school catalog claims to offer American Welding Society (AWS) certification upon completion of the course.

On March 11, 2015, the institution was notified of the error on D.C.'s original certificate of completion, and the institution acknowledged the error.

On March 17, 2015, the institution revised the certificate by changing the hours completed and removed the certifications achieved by D.C; however, the institution still failed to list the course subjects completed and the corresponding clock hours associated with each welding training course on D.C.'s certificate of completion. The revised certificate retained the same date, October 19, 2012, as the original certificate.

During the Bureau field visit on March 4, 2015, Bureau staff observed the lack of a self-contained eyewash station within Cal-Trade's welding shop area. As required by the California Division of Occupational Health (Cal/OSHA) General Industry Safety Orders (GISO) §5162, Cal-Trade is required maintain an eyewash station within the immediate welding shop area. Bureau staff notified the owner, Erwin, of the requirement to maintain an permanent eyewash station within the immediate welding shop area and failure to do so is a violation of Cal/OSHA GISO §5162. Emergency Eyewash and Shower Equipment. Erwin acknowledged the lack of eyewash station, and showed Bureau staff his alternative method of handling eye injuries, which is in violation of the Cal/OSHA regulation.

In August 2016, Bureau staff contacted the American Welding Society (AWS) regarding Cal-Trade's MIG/TIG Specialty Course. AWS advised the Bureau that Cal-Trade's incorrectly advertised that it is "AWS Certified" and that the course announcement for the MIG/TIG Specialty Welding Course is misleading as students do not gain AWS certification or endorsements by completing Cal-Trade's MIG/TIG Specialty Course.

VIOLATION

#	The California Education Code (CEC), Business and Professions Code (BPC) 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: CEC 94897(j). Prohibited Business Practices. <i>An institution shall not do any of the following:</i> <i>(j) In any manner make an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information.</i></p> <p style="color: red;">On October 19, 2012, Cal-Trade issued a certificate of completion to the student D.C. indicating he completed 360 clock hours of metal inert gas (MIG) and tungsten inert gas (TIG) welding training in the areas of 1/16" 4043 Aluminum, 1/8" & 5/32" E-7018, and Inner shield.</p> <p style="color: red;">On May 23, 2013, D.C. submitted a student complaint to the Bureau stating he signed an enrollment agreement with Cal-Trade to enroll in the school's MIG/TIG Specialty Welding Course, which consisted of ten (10) weeks of instruction in both subjects at 30 hours per week to total 300 clock</p>

hours of training. D.C. stated that Cal-Trade issued him certificate of completion that indicated he completed 360 clock hours of training and which included three course components in MIG and TIG welding training in the areas of 1/16" 4043 Aluminum, 1/8" & 5/32" E-7018, and Inner shield. D.C further stated that he did not receive instruction in the welding aluminum component and very little instruction in the stainless steel component.

On March 5, 2015, Bureau staff conducted an unannounced school visit to Cal-Trade to investigate the student complaint filed by D.C. Bureau staff interviewed school owner Robert C. Erwin (Erwin) and reviewed D.C.'s student records. D.C entered into an enrollment agreement with Cal-Trade for the MIG/TIG Specialty Course, which was signed by both parties on July 27, 2012. Cal-Trade omitted the course outline and the listing the clock hours of training as listed in the course announcement in D.C.'s enrollment agreement.

Bureau staff reviewed D.C.'s student records and found D.C.'s attendance record sheets indicated he actually completed 301.5 clock hours; also, the training record listed on D.C.'s attendance sheet and progress reports do not list TIG (Aluminum) training as completed. D.C.'s MIG/TIG progress reports do not indicate the Cal-Trade provided training in the TIG (Aluminum) course subject.

On March 10, 2015, Bureau staff called the school's Administrative Assistant, M.R., and notified her of the discrepancy between the hours on the certificate of completion and the signed enrollment agreement. M.R. responded that listing of 360 hours on the certificate of completion was a "typo" made by her and acknowledged it was an error.

On March 11, 2015, Bureau staff contacted the school by email and notified M.R. of the clock hours discrepancy in the student records. M.R. responded via email on March 16, 2015, and notified the Bureau staff that that Cal-Trade updated the certificate after D.C. attended the school. M.R. wrote that Cal-Trade would be creating a new certificate for D.C. and would forward the certificate to the Bureau for review.

On March 17, 2015, M.R. sent a new revised certificate to the Bureau by email. The revised certificate listed the completed hours for the student D.C at 300 clock hours. The revised certificate also had the Appearance Test and Filler Metal qualification table removed. The 300 clock hours listed on the revised certificate does not match D.C.'s attendance records, which indicate D.C. completed 301.5 clock hours. The course outline and clock hours completed by subject also was still omitted from D.C.'s certificate of completion. The revised certificate issue date was listed as July 30, 2012, though it was updated by Cal-Trade on March 17, 2015.

On August 9, 2016, I attempted to contact D.C by formal correspondence at his home and also by phone. I was unable to contact D.C. to determine if he had gained employment in the welding industry after he completed his training at Cal-Trade.

Cal-Trade issued a false completion certificate to D.C. on October 19, 2012, which reflected his completion of 58.5 hours of additional welding training that the D.C. did not receive. Cal-Trade also did not list the course subjects completed and the clock hours for each subject matter on the certificate. Cal-Trade acknowledged the error when notified by the Bureau and issued a revised

certificate of completion on March 17, 2015, only after they were notified of the error by the Bureau.

The revised certificate issued by Cal-Trade did not correctly list the total clock hours completed (301.5) and the clock hours of training completed for each specific welding course. The revised certificate also omitted the training components that D.C completed, as listed on the MIG/TIG Specialty Welding Course announcement which is listed in Cal-Trade's current 2016-2017 catalog on its website.

Order of Abatement:

The Bureau orders the institution to submit written evidence that the school catalog and enrollment agreement reflect the specific training and certifications offered in the school's welding courses; and the student training requirements reflect those contracted certifications as agreed upon in the enrollment agreement.

In addition, the Bureau orders that the institution submit a detailed plan of how the institution will ensure the accuracy of certificates of completion and enrollment agreements that it will issue in the future. The Bureau also mandates the institution's catalog reflect the correct training offered and correct any misrepresentations about certification by a trade association or other entity.

Assessment of Fine

The fine for this violation is **\$500.00**

2. Violation:

BPC 17500. False and Misleading Advertising.

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised.

On July 27, 2012, D.C. signed an enrollment agreement with Cal-Trade to enter the MIG/TIG Specialty Welding Course. The enrollment agreement was based on the school catalog advertisement that specifically lists stainless steel and aluminum welding training as part of the course curriculum.

On October 19, 2012, Cal-Trade issued a certificate of completion to D.C. indicating he completed 360 clock hours of MIG and TIG welding training in the areas of 1/16" 4043 Aluminum, 1/8" &

5/32" E-7018, and Inner shield.

The course program advertised the following:

Occupational Objective: Certified MIG/TIG Welder

Training is conducted in the shop on school premises. The students work toward AWS certifications which they can achieve in several welding processes. When the course is finished, a certificate of completion is issued along with the appropriate AWS welding certifications.

On August 30, 2016, Bureau staff spoke with J.G., AWS Senior Associate Executive Director, the trade association which Cal-Trade is an active member. Cal-Trade advertises at its webpage at www.caltradeweldingschoolofmodesto.com that Cal-Trade is "AWS Certified". J.G. reviewed Cal-Trade's website content and stated that it is incorrect; AWS did not certify Cal-Trade's training curriculum or welding courses; therefore, students do not gain AWS certification by completing any of Cal-Trade's training courses in welding.

J.G. notified Bureau staff that that Cal-Trade's course announcement for the MIG/TIG Specialty Welding Course is misleading, as it indicates the following statement:

When the course is finished, a certificate is issued along with the appropriate AWS welding certifications.

J.G. stated that Cal-Trade does not specify in its advertisement which certifications are granted when the course is completed. J.G. stated Cal-Trade is not an approved testing facility by AWS, and cannot offer individual AWS certifications. J.G. stated students seeking individual welding certification must apply to AWS directly for qualifications and education review and submit to AWS testing to achieve certification in their specific qualification of welding.

J.G. examined the MIG/TIG Specialty Welding course announcement and the two different certificates of completion issued to D.C. J.G. stated the course announcement and the certificate of completion should state the qualifications attained was according to "AWS Standards and Codes" and does not grant AWS certification upon completion of the course. J.G. also observed that the omission of the specific welding endorsements completed, such as the areas stainless steel and aluminum. J.G. stated those specific endorsements should only be listed on the certificate only if the student completed the appropriate training hours and performed the welding dimension to earn the endorsement.

D.C did not gain AWS certification or welding endorsements upon graduating from Cal-Trade's MIG TIG Specialty Welding Course, though Cal-Trade advertised in its course announcement and enrollment agreement that he would receive training and earn those welding endorsements through successful completion of the course.

Order of Abatement:

The Bureau orders the institution to submit written evidence that the school catalog and enrollment agreement has been revised to reflect the specific training and certifications offered in the school's welding courses and the student training requirements reflect those contracted certifications as

	<p>agreed upon in the enrollment agreement.</p> <p>In addition, the Bureau orders that the institution review all certificates issued from the MIG/TIG Specialty Welding Course, including the complainant's, and issued corrected certificates to those affected students that have taken the MIG/TIG Specialty Welding Course. The Bureau also mandates the institution's catalog reflect the correct training offered and correct any misrepresentations about certification by a trade association or other entity.</p> <p><u>Assessment of Fine</u> The fine for this violation is \$500.00</p>
<p>3.</p>	<p><u>Violation:</u> Title 5, CCR 71735(b). Facilities and Equipment. <i>(b) An institution's facilities, including heating and cooling, ventilation, lighting, classrooms, laboratories, and campus environs, shall be well-maintained. The institution shall maintain all valid permits required by any public agencies relating to the health and safety of the institution's facilities and equipment on file, and such permits shall be available to the Bureau upon request.</i></p> <p>As required by Cal/OSHA GISO §5162, Cal-Trade is required maintain an eyewash station within the immediate welding shop area as students may come into contact with a substance which can cause corrosion, severe irritation or permanent tissue damage or chemicals which is toxic by absorption.</p> <p>During the Bureau field visit on March 4, 2015, Bureau staff observed the lack of a self-contained eyewash station within Cal-Trade's welding shop area. Bureau staff notified the owner, Erwin, of the requirement to maintain an permanent eyewash station within the immediate welding shop area pursuant to Cal/OSHA GISO §5162. <u>Emergency Eyewash and Shower Equipment.</u></p> <p>Erwin acknowledged the lack of a permanent eyewash station in Cal-Trade's student welding shop area. Erwin revealed to Bureau staff that he keeps a first aid kit, a bottle of eye wash fluid, and tweezers in Cal-Trade's business office <u>in lieu</u> of the dedicated plumbed sink with the necessary eye wash equipment as required by the Cal/OSHA regulation.</p> <p><u>Order of Abatement:</u> The Bureau requests a current copy of the institution's most recent safety inspection report from Cal/OSHA. The Bureau also orders that the institution submit proof of compliance with CCR 71735(b) in relation to Cal/OSHA GISO §5162 to the Bureau within 60 days of this notice.</p> <p><u>Assessment of Fine</u> The fine for this violation is \$5,001.00</p>
	<p>TOTAL ADMINISTRATIVE FINE DUE: \$6,001.00</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 **\$6,001.00** 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 **DECEMBER 30, 2016**, 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 **NOVEMBER 30, 2016**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **DECEMBER 30, 2016**. 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:

Ben Graber, 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 Ben Graber, Enforcement Analyst, at 916-576-2409 or Benjamin.graber@dca.ca.gov.



Elainea Shotwell
Enforcement Manager

November 30, 2016

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