



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

To: Tanny Diep, Owner
Sway Brows
11688 South Street, 2nd Floor, Suite 204
Artesia, CA 90701

INSTITUTION CODE: Unapproved
CITATION NUMBER: 2021255
CITATION ISSUANCE/SERVICE DATE: May 13, 2021
DUE DATE: June 12, 2021
FINE AMOUNT: \$ 25,000.00
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 Tanny Diep, Owner of Sway Brows (Institution) located 11688 South Street, 2nd Floor, Suite 204, Artesia, CA 90701, Artesia, CA 90701 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 February 18, 2021, the Bureau received a complaint alleging that the Institution was operating without Bureau approval. Through the course of the investigation and evidence obtained, it was determined that the Institution is operating without Bureau approval or valid exemption.

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><u>Violation:</u> CEC Section 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 Section 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>

CEC Section 94868. To Offer to the Public

"To offer to the public" means to advertise, publicize, solicit, or recruit."

CEC Section 94869. To Operate

"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."

On February 18, 2021, the Bureau received a complaint alleging that the Institution was operating without Bureau approval or a valid exemption.

On March 9, 2021, Bureau staff reviewed the Institution's website and found the following information:

- There is a second studio location for training and services located two doors down from its main location; and
- The Microblade and Shade course has a total cost of \$2,999.00.

On March 11, 2021, Bureau staff reviewed the Institution's Facebook page and found posts dated between June 11, 2019, to January 6, 2020, of the following:

- Advertisements for the Microblade and Shade Course;
- Photos of the Institution Owner providing instruction to students using a live model and working work with a student on a live model;
- Photo of students holding completion certificates from the Microblade and Shade course;

In addition, Bureau staff reviewed the Institution Owner's LinkedIn profile and found that the Institution Owner listed herself as a "Master Brow Artist & Education" at the Institution from 11/2018 to present.

On March 12, 2021, Bureau staff reviewed the Institution's Instagram page and found posts dated between June 14, 2019, to December 22, 2020, of the following:

- Photos of Institution Owner with students holding completion certificates from the Microblade and Shade course;
- Statements of students enrolling and attending Microblade and Shade course;
- Video of Institution Owner stating that Institution will train students on everything from microblading, to business strategies, and social media marketing;
- Photo of Institution Owner with a class full of students;
- Statement that students were able to work on live models under instructor guidance;
- Dates of 2020 courses: 1/13, 2/15-2/16, 2/17, 3/13-3/14, 3/15, and 4/17-4/18;
- Statement that courses at the main location would continue while other locations would be postponed or cancelled due to COVID-19 concerns;
- Photo of Institution Owner working on a live model with a student;
- Video of Institution Owner providing instructions on how to do a procedure on a live model; and
- Video of Instruction Owner with students holding completion certificates.

On March 15, 2021, Bureau staff emailed the Institution inquiring about the price as well as the online portion for the Microblade and Shade course. Institution staff responded to the email stating that the online course is required in order to get a certificate and that the in-person course costs a total of \$2,999.00 which includes a premium kit, 6 months of support and access, and the 2-day in-person training.

On April 13, 2021, Bureau staff reviewed the Institution's website and found that 2021 courses were being advertised for the following dates: 4/17-4/18, 5/21-5/22, 6/18-6/19, 6/26-6/27, 7/16-7/17.

Additionally, Bureau staff reviewed the Institution's Facebook profile and found advertisements posted between September 10, 2020, through March 4, 2021.

As of May 13, 2021, the Institution continues to operate without Bureau approval or a valid exemption.

Order of Abatement:

The Bureau orders that the Institution cease to operate as a private postsecondary educational institution, unless the Institution qualifies for an exemption under CEC section 94874. The Institution must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media, including <https://swaybrows.com/>, and any other websites not identified here that are associated with the Institution, until such time as an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone service numbers including, but not limited to, (619) 920-8833, that are associated with the Institution until such time as an approval to operate is obtained from the Bureau. To comply with the Order of Abatement the Institution must submit a school closure plan to the Bureau pursuant to California Education Code section 94926. The Institution must provide a roster of each student currently enrolled at the Institution. The roster must include the names of the students, their contact information (including phone number, email address, and physical address), the programs in which they are enrolled, the amount paid for the programs.

Assessment of Fine

The fine for this violation is \$25,000.00

TOTAL ADMINISTRATIVE FINE DUE: \$25,000.00

ASSESSMENT OF A FINE

In accordance with CEC section 94944; and 5, CCR section 75020(b), the Bureau hereby orders this assessment of a fine in the amount of **\$25,000.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

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 **June 12, 2021**, 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 **May 13, 2021**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **June 12, 2021**. 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:

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

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 Nicole Mitchell, Citation Analyst, at Nicole.Mitchell@dca.ca.gov.

"Original signature on file"

"5/13/2021"

Christina Villanueva
Discipline Manager

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