Bureau for Private Postsecondary Education
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APPEAL OF CITATION INFORMAL CONFERENCE DECISION: CITATION AFFIRMED

August 26, 2015

Nunzio Ciaraulo
Vivoli Franchising USA dba Vivoli Academy of Culinary Arts
1520 N. Hayworth Avenue #11
Los Angeles, CA 90046

Date of Issuance	Citation Number	Institution Code
August 26, 2015	1415114	92563347

On August 25, 2015 an informal telephone conference was scheduled in the matter of Citation: Assessment of Fine and Order of Abatement No. 1415114 (Citation) against Nunzio Ciaraulo, owner of Vivoli Franchising USA dba Vivoli Academy of Culinary Arts. In attendance were Yvette Johnson, Enforcement Chief and Nunzio Ciaraulo, owner.

Pursuant to Business and Professions Code, §125.9; California Education Code, §94936; and Title 5 of the California Code of Regulations, §75020 and §75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 1415114.

It is the decision of the Bureau Chief that on August 26, 2015 Citation No. 1415114 is affirmed for the following reason(s):

- Institution failed to submit 2013 Annual Report. All institutions that hold a Bureau approval to operate must submit an Annual Report.
- No new substantive facts were presented at the conference.

VIOLATION CODE SECTIONS

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the section(s) you are charged with violating.

1. **Violation:**

5, CCR 74110 (a-d) – Annual Report

"(a) The annual report required by section 94934 of the Code shall include the information required by section 94934 for all educational programs offered in the prior calendar year. (b) In addition to the information required by section 94934 provided under penalty of perjury, the institution shall have annual financial statements prepared for the institution's prior fiscal year and signed under penalty of perjury, and shall submit a hard copy under separate cover of such statements in conjunction with its annual report. The form, content and mode of preparation of financial statements shall comply with section 74115 of this Division. The Bureau may request that the institution immediately make available for inspection to a representative of the Bureau, these financial statements at the offices of the institution. (c) An institution shall file its annual report by September 1st. The Bureau may extend the period for filing if the institution demonstrates evidence of substantial need but in no case longer than 60 days. The institution shall not change the date of its filing its annual report because of a change in the fiscal year without the Bureau's approval. (d) The annual report shall be electronically filed by submitting the information required by section 94934 of the Code via the Bureau's website, electronically attaching, as directed, the School Performance Fact Sheet and the school catalog. An institution without the capability to submit the information electronically shall inform the Bureau not less than 45 days prior to the date the information is required by subdivision (c), and receive direction on alternative means of submission."

CEC 94934(a)(1-9) - Annual Report

"(a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:

(1) The total number of students enrolled by level of degree or for a diploma.

(2) The number of degrees, by level, and diplomas awarded.

(3) The degree levels and diplomas offered.

(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

(5) The school catalog, as required pursuant to Section 94909.

(6) The total charges for each educational program by period of attendance. (7) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.

(8) A statement indicating whether an accrediting agency has taken any final disciplinary action against the institution.

(9) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter."

On 4/7/14, the Bureau mailed a letter to the institution stating that the 2013 Annual Report must be submitted beginning 7/1/14 and no later than 9/1/14. On 11/4/14, the Bureau mailed a second letter to the institution stating that the Bureau had not received the required 2013 Annual Report by the 9/1/14 deadline. To date, the institution has failed to file its 2013 Annual Report.

Order of Abatement:

The Bureau orders the institution to submit its annual report in accordance with 5, CCR 74110 (a-d) and CEC 94934. The option to submit the annual report via the Bureau website has expired. Please submit a CD or flash drive* containing the annual report with the required information.

	Assessment of Fine The fine for this violation is $5,000.00
	THE TOTAL AFFIRMED ADMINISTRATIVE FINE DUE: $5,000.00

ORDER OF ABATEMENT

The Bureau orders that you comply with the orders described in the 'Violation Code Sections' of this document and submit evidence of compliance within 30 days from the date of this decision.

PENALTY – ASSESSMENT OF A FINE

Payment of the administrative fine is due within 30 days from the date of this decision. Please complete the Payment of Fine form. Payment must be made to the Bureau by check, or money order. Please include the citation number on the payment of the fine assessment. Payment of the administrative fine shall not constitute an admission of the violation(s) charged and shall be represented as satisfactory resolution of the matter for purposes of public disclosure. Payments may be mailed to:

Jody Wright, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this affirmed Citation. You *do*, however, have the right to appeal this affirmed Citation through an Administrative Hearing, *only if* you initially requested one within 30 days from the issuance date of the original citation. If you did not initially request an Administrative Hearing within 30 days from when the original citation was issued, you can no longer request one.

EFFECTIVE DATE OF CITATION AND FINE ASSESSMENT

This affirmed Citation is effective on August 26, 2015. The order of abatement and payment are due by **September 25, 2015.** Failure to abate the violation or to pay the administrative fine within the time allowed is grounds for denial of an application for an approval to operate or discipline. The Bureau will promptly take all appropriate action to enforce the Affirmed 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 decision or desire further information, please contact Jody Wright, Enforcement Analyst, at (916) 431-6940 or at Jody.Wright@dca.ca.gov.

Yvette Johnson

YVETTE JOHNSON
ENFORCEMENT CHIEF

August 26, 2015
Date

Enclosures

- Payment of Fine – Waiver of Appeal after Informal Conference
- Notice of Appeal – Request for Administrative Hearing
- Withdrawal Request for Administrative Hearing