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

To: Christian Pezza
Shiatsu Massage School of California
2309 Main Street
Santa Monica, CA 90405

INSTITUTION CODE: 1904471
CITATION NUMBER: 1516027
CITATION ISSUANCE/SERVICE DATE: August 20, 2015
DUE DATE: September 19, 2015
FINE AMOUNT: $ 15,000.00
ORDER OF ABATEMENT INCLUDED: YES

Elainea Shotwell issues this Citation: Assessment of Fine and Order of Abatement (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 Christian Pezza, Owner, of Shiatsu Massage School of California located at 2309 Main Street, Santa Monica, CA 90405 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.

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.	**Violation:** 5, CCR 71930 (f) - Maintenance of Records "(f) If an institution closes, the institution and its owners are jointly and severally responsible to arrange at their expense for the storage and safekeeping in California of all records required to be maintained by the Act and this chapter for as long as those records must be maintained. The repository of the records shall make these records immediately available for inspection and copying, without charge except as allowed under subdivision (c) (4) of this section, during normal business hours by any entity authorized by law to inspect and copy records." On 7/15/14, the Bureau received a complaint from C.K. alleging that Shiatsu Massage School of California (SMSC) failed to provide student transcripts after a payment was received. C.K. submitted

	a formal transcript request and a $25.00 check to SMSC per the instructions on SMSC website. On 8/12/14, C.K. left a voice mail for Bureau staff stating that she spoke to Christian Pezza (Pezza), owner of SMSC, who claimed that he did not have any information and that the Bureau for Private Postsecondary Education had all of the institution's documents. On 8/21/14, C.K. provided Bureau staff with copies of the transcript request and copies of the front and back of the processed $25.00 check. On 9/11/14, Bureau staff contacted Pezza, by telephone advising him that until Bureau management made a decision on his request for the Bureau to become the custodian of records, he was still responsible for responding to student transcript requests and obligated to maintain the security of student records. Pezza stated to Bureau staff that he would "do [his] best" On 10/11/14, Bureau staff received an email from Pezza stating that he does not check his email often and that he would follow up sometime in the upcoming week. On 10/13/14, Bureau staff emailed Pezza, requesting an alternate email address as well as paperwork for another case (#999662) against SMSC. That same day Bureau staff received an automated response from Pezza that stated that SMSC was out of business. The email also stated that Pezza voluntarily donated his work hours since 2006 and that there were no more funds to operate the business so he was not able to assist in any administrative services. The email directed any important information be sent to P.O. Box 8810, Los Angeles, CA 90008. The address under his name on the bottom of the email listed P.O. Box 8811, Los Angeles, CA 90008. On 11/18/14, Bureau staff received email confirmation from C.K. that Pezza had not provided the requested transcripts or refunded the $25.00 fee. On 11/26/14, Bureau staff contacted Pezza by email and by mail to both of his P.O. boxes to request the official sealed transcripts and proof of training documents for student C.K. no later than 12/08/14. Bureau staff received the same automated email response from Pezza that was sent on 10/13/14. Pezza requested that the Bureau take ownership of the student records however he refused to, at his own expense, as required by 5, CCR 71930 (f), make arrangements for the Bureau to obtain the records. Pezza has ignored the Bureau's attempts to obtain records. **Order of Abatement:** The Bureau orders that the institution maintain the security of student records and provide transcripts in compliance with 5, CCR 71930 (f). Submit written evidence to the Bureau indicating all transcript requests have been filled. **Assessment of Fine** The fine for this violation is $5,000.00
2.	**Violation:** CEC 94927.5 (a)(1) - Provision of Records to Bureau Prior to Closing *"(a) Prior to closing, an institution shall provide the bureau with the following: (1) Pertinent student*

	records, including transcripts, as determined by the bureau, pursuant to regulations adopted by the bureau." On 10/13/14, an automated email response was sent from Pezza to Bureau staff stating that SMSC was out of business. The institution did not designate a custodian of records or provide student records, including transcripts, to the Bureau prior to closing as required by CEC 94927.5 (a)(1). **Order of Abatement:** The Bureau orders that the institution provide records of student information, including transcripts, and that a custodian of records be designated in compliance with CEC 94927.5 (a)(1) **Assessment of Fine** The fine for this violation is $5,000.00
3.	**Violation:** CEC 94926 (a,b,d) - Procedures Prior to Closing, Teach-Out Plans *"At least 30 days prior to closing, the institution shall notify the bureau in writing of its intention to close. The notice shall be accompanied by a closure plan, which shall include, but not necessarily be limited to, all of the following:* *(a) A plan for providing teach-outs of educational programs, including any agreements with any other postsecondary educational institutions to provide teach-outs.* *(b) If no teach-out plan is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that participate in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.* *(d) A plan for the disposition of student records."* 5, CCR 74200 - Cessation of Educational Program. "Every institution shall notify the Bureau in writing at least 30 days before the institution ceases to offer to the public any educational program." 5, CCR 76240 (a)(1)(2)(3)(4)(A)(B)(5)(6)(b)(1)(2) - Required Notices and Teach-Out Plan *"All institutions, including those exempt from Bureau regulation pursuant to the Code, shall do the following prior to closing:* *(a) At least 30 days prior to closing, the institution shall notify the Bureau in writing of its intention to close and provide a closure plan. The closure plan shall include:* *(1) The exact date and reason for the closure.* *(2) The last date of instruction for each educational service or program.* *(3) A list of students who were enrolled at any time during the 60 days prior to closure.* *(4) If any student will not be provided complete educational services or the educational program, the institution shall provide:* *(A) A plan for providing teach-outs or transfers, including the details of any agreements with other institutions.* *(B) If no teach-out is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that participate in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.* *(5) A plan for the disposition of student records.* *(6) A plan to notify students of their rights and options under the Act and this chapter.* *(b) The institution shall notify the students of the following:*

	(1) If the institution is a participant in federal student financial aid programs, it shall provide students information concerning those programs and institutional closures. *(2) If any student will not be provided complete educational services or the educational program, information regarding the Student Tuition Recovery Fund and the Bureau's physical and Internet addresses"* On 8/5/14, Pezza submitted a partially completed school closure plan that indicated he had six students attending at the time of closure and he had no teach-out or transfer plan in place. Pezza failed to notify students or the Bureau of his intention to close the institution or provide a closure plan 30 days prior to closing in violation of 5, CCR 74200, 5, CCR 76240 and CEC 94926. **Order of Abatement:** The Bureau orders that Pezza submit a completed closure plan to the Bureau as required by CEC 94926 (a,b,d), 5, CCR 74200 and 5, CCR 76240(a)(1)(2)(3)(4)(A)(B)(5)(6)(b)(1)(2). **Assessment of Fine** The fine for this violation is $5,000.00
	TOTAL ADMINISTRATIVE FINE DUE: $15,000.00

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 **$15,000.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

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.**

BACKGROUND

On 7/15/14, the Bureau received a complaint from C.K. alleging that Shiatsu Massage School of California (SMSC) failed to provide student transcripts after a payment was received. C.K. submitted the formal transcript request and a $25.00 check to SMSC per the instructions on SMSC website.
On 8/12/14, C.K. left a voice mail for Bureau staff stating that she spoke to Pezza, owner of SMSC, who claimed that he did not have any information and that the Bureau for Private Postsecondary Education had all of the institution's documents.
On 8/21/14, C.K. provided Bureau staff with copies of the transcript request and copies of the front and back of the processed $25.00 check.
On 9/11/14, Bureau staff contacted Pezza, by telephone advising him that until Bureau management made a decision on his request for the Bureau to become the custodian of records, he was still responsible for responding to student transcript requests and obligated to maintain the security of student records. Pezza stated to Bureau staff that he would "do [his] best"

On 10/7/14, C.K. sent Pezza an email and courtesy copied the Bureau. In the email C.K. stated that she sent a request for transcripts in May of 2014. C.K. stated that the request included a $25.00 check which was cashed and initialed "CP". C.K. also stated that she spoke with Pezza by telephone and that he denied having any knowledge of it. C.K. requested that Pezza advise her when the transcripts would be available and included copies of the request forms and the processed check.

On 10/13/14, Bureau staff emailed Pezza, requesting an alternate email address as well as paperwork for another case (#999662) against SMSC. That same day Bureau staff received an automated response from Pezza that stated that SMSC was out of business. The email also stated that Pezza voluntarily donated his work hours since 2006 and that there were no more funds to operate the business so he was not able to assist in any administrative services. The email directed any important information be sent to P.O. Box 8810, Los Angeles, CA 90008.

On 11/18/14, Bureau staff received email confirmation from C.K. that Pezza had not provided the requested transcripts or refunded the $25.00 fee.
On 11/26/14, Bureau staff contacted Pezza by email and by mail to both of his P.O. boxes to request the official sealed transcripts and proof of training documents for student C.K. no later than 12/08/14. Bureau staff received the same automated email response from Pezza that was sent on 10/13/14.

No additional responses have been received from Pezza and he has failed to provide documents to remedy the violations.

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 September 19 2015, 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 **August 20, 2015.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **September 19, 2015**. 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:

Jody Wright, 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 Jody Wright, Enforcement Analyst, at 916-431-6940 or Jody.Wright@dca.ca.gov.

Elainea Shotwell
Enforcement Manager

August 20, 2015
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