Bureau for Private Postsecondary Education
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P.O. Box 980818, West Sacramento, CA 95798-0818
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MODIFIED CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Suzanne Berdall, President
Wrymoo Railroad Historical and Educational Society
Modoc Railroad Academy, Corporation
10030 Fair Oaks Boulevard
Fair Oaks, California 95813

INSTITUTION CODE: 2500021
CITATION NUMBER: 1314004
CITATION ISSUANCE/SERVICE DATE: October 8, 2015
DUE DATE: November 7, 2015
FINE AMOUNT: $ 3259.00
ORDER OF ABATEMENT INCLUDED: YES

Yvette Johnson issues this Citation: Assessment of Fine and 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 Wrymoo Railroad Historical and Educational Society – Modoc Railroad Academy, Corporation, Owner of Modoc Railroad Academy located at 10030 Fair Oaks Boulevard, Fair Oaks, CA 95628 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. . **Your payment of any monies related to this Citation shall not constitute an admission of the violation(s) charged.**

VIOLATION(S)

#	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:** CEC 94897(k) – Prohibited Business Practices *"An institution shall not do any of the following:* *(k) Willfully falsify, destroy, or conceal any document of record while that document of record is required to be maintained by this chapter."* Upon withdrawal from the institution, the institution destroys all student records. After former student, Mike Danzeisen withdrew from the institution's Conductor Program, the institution

	destroyed student records. **Order of Abatement:** 1. An institution shall not destroy any document of record while that document of record is required to be maintained. **Assessment of Fine:** The fine for this violation is **$0.00**.
2.	**Violation:** CEC 94920(b) – Mandatory Cancellation, Withdrawal, and Refund Policies *"An institution that does not participate in the federal student financial aid programs shall do all of the following:* *(b) Institutions shall refund 100 percent of the amount paid for institutional charges, less a reasonable deposit or application fee not to exceed two hundred fifty dollars ($250), if notice of cancellation is made through attendance at the first class session, or the seventh class day after enrollment, whichever is later."* **Violation:** 5, CCR 71750(a) – Withdrawals and Refunds. *"(a) Every institution shall make refunds that are no less than the refunds required under the Act and this Division."* The institution failed to refund 100 percent of the institutional charges paid, not including the deposit or application fee not to exceed $250.00, to former student, Mike Danzeisen, who withdrew from the Conductor Program within seven days from the first class. The institution refunded the student a partial refund. However, as of date, the institution has not refunded the student, the total remaining refund due, in the amount of $3,259.00. **Order of Abatement:** 1. The institution shall pay former student, Mike Danzeisen the remaining total refund due, in the amount of $3,259.00. 2. The institution shall submit to the Bureau proof of payment, of the remaining balance of $3,259.00 paid to Mike Danzeisen. 3. Payment must be made no later than February 4, 2016 (120 days from date of issuance of modified citation) **Assessment of Fine:** The fine for this violation is **$0.00**.
	Violation: CEC 94920(e) – Mandatory Cancellation, Withdrawal, and Refund Policies *"An institution that does not participate in the federal student financial aid programs shall do all of the following:* *(e) The institution shall pay or credit refunds within 45 days of a student's cancellation or withdrawal."* **Violation:** 5, CCR 71750(e) – Withdrawals and Refunds *"(e) An institution shall refund any credit balance on the student's account within 45 days after the*

	date of the student's completion of, or withdrawal from, the educational program in which the student was enrolled. For purposes of this subdivision and section 94919(d) of the Code, "day" means calendar day." The institution failed to refund former student, Mike Danzeisen, who withdrew from the Conductor Program, the total refund amount due within 45 days of withdrawal. The institution provided a partial refund to the student within 45 days of withdrawal. As of date, the institution has not refunded the student, the remaining total refund due, in the amount of $3,259.00. **Order of Abatement:** 1. The institution shall pay former student, Mike Danzeisen, the remaining total refund due, in the amount of $3,259.00. 2. The institution shall submit to the Bureau proof of payment, of the remaining balance of $3,259.00 paid to Mike Danzeisen. 3. Payment must be made no later than February 4, 2016. (120 days from date of issuance of modified citation) **Assessment of Fine:** The fine for this violation is **$0.00**.
4.	**Violation:** CEC 94926(a-d) – Procedures Prior to Closing, Teach-Outs *"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.* *(c) If the institution is a participant in federal student financial aid programs, it shall provide students information concerning these programs and institutional closures.* *(d) A plan for the disposition of student records."* **Violation:** 5, CCR 76240(a)(1-4)(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 July 2, 2012 the Bureau received a letter regarding 2012 Annual Reports, wherein the institution mentioned that the program is expected to close operations in California on December 31, 2012. The institution has closed operations in the state of California. The institution failed to submit a closure plan pursuant to the requirements described in the above mentioned code sections, at least 30 days prior to closing. **Order of Abatement:** 1. The institution shall submit a closure plan consisting of the following requirements: • The exact date and reason for the closure. • The last date of instruction for each educational service or program. • A list of students who were enrolled at any time during the 60 days prior to closure. • If any student will not be provided complete educational services or the educational program, the institution shall provide: - A plan for providing teach-outs or transfers of educational programs, including the details of any agreements with other postsecondary educational institutions to provide teach-outs or transfers. - 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. • A plan for the disposition of student records. • A plan to notify students of their rights and options under the Act and this chapter. • The institution shall notify the students of the following: - 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. **Assessment of Fine:** The fine for this violation is **$0.00**.
5.	**Violation:** CEC 94927.5(a)(1) & (b) – 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.* *(b) Subdivision (a) applies to all private postsecondary institutions, including institutions that are otherwise exempt from this chapter pursuant to Article 4 (commencing with Section 94874)."* Prior to closing, the institution did not provide the Bureau with pertinent student records, including transcripts.

	Order of Abatement: 1. The institution shall provide the Bureau with pertinent student records, including transcripts, as determined by the Bureau, pursuant to the regulations adopted by the Bureau or comply with 5, CCR 71930(f). **Assessment of Fine:** The fine for this violation is **$0.00**.
6.	**Violation:** 5, CCR 71930(a) – Maintenance of Records *"(a) An institution shall maintain all records required by the Act and this chapter. The records shall be maintained in this state."* *The institution does not maintain all records required by the Act and this chapter in the state of California.* **Violation:** 5, CCR 71930(b)(1) – Maintenance of Records *"(b)(1) In addition to permanently retaining a transcript as required by section 94900(b) of the Code, the institution shall maintain for a period of 5 years the pertinent student records described in Section 71920 from the student's date of completion or withdrawal."* The institution destroys all student records, upon withdrawal from the institution, which included a former student, Mike Danzeisen, who withdrew from the Conductor Program. The institution does not permanently retain transcripts or pertinent student records described in 5, CCR 71920, for a period of 5 years. **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."* The institution and its owners failed to arrange for the storage and safekeeping of all records required to be maintained by the Act and this chapter for as long as those records must be maintained, in the state of California. **Order of Abatement:** 1. The institution shall retain transcripts permanently and pertinent student records described in 5, CCR 71920, for a period of 5 years in the state of California. 2. The institution shall provide the Bureau with the location of where the required records are kept and the contact information of the person who has immediate access to those records or comply with CEC 94927.5(a)(1) & (b).

	Asessment of Fine: The fine for this violation is **$0.00**.
TOTAL CIVIL FINE DUE: $3,259.00	

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 **$3,259.00** for the violations described above. **Payment must be made to Mike Danzeisen and proof of payment must be submitted to the the Bureau, within 120 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 June 10, 2011 the Bureau received a complaint against the institution. During the course of the Bureau's investigation the above mentioned violation(s) were identified.

PAYMENT OF STUDENT REFUNDS

Payment of restitution to student Mike Danzeisen shall be made by cashier's check or money order in the amount of $3,259.00 on or before 120 days after service of the Modified Citation, or by February 4, 2015. The cashier's check or money order shall be sent by certified mail to the student. Proof of payment of the student refund is due to the Bureau 120 days after service of the Modified Citation.

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.

Yvette Johnson

Yvette Johnson
Enforcement Chief

October 8, 2015
Date

Enclosures

- Declaration of Service by Certified and First Class Mail