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

To: Jocelyn Tran, Owner
Thuong Dang, Owner
USA PhiAcademy Beauty School
1515 E. Shaw Avenue
Fresno, CA 93710

INSTITUTION CODE: Unapproved
CITATION NUMBER: 1819195
CITATION ISSUANCE/SERVICE DATE: May 14, 2019
DUE DATE: June 13, 2019
FINE AMOUNT: $ 10,000
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 Jocelyn Tran, and Thuong Dang, Owners of USA PhiAcademy Beauty School (Institution) located at 1515 E. Shaw Avenue, Fresno, CA 93710, 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 August 17, 2017, the Bureau received a complaint against the Institution for operating without Bureau approval. The Institution's website advertises a Phibrows Microblading Training Course for $3,500.00 and a PhiBrows Training Course for $3,600.00. Courses are taught in various locations in California: Oakland, Sacramento, Bakersfield, San Diego, San Jose, and Anaheim.

The Bureau determined the Institution is conducting business as a private postsecondary educational institution based on evidence collected, including the Institution's website, www.usamicroblading.com. The Institution is not operating as an exempt institution, as the website establishes tuition costs ranging from $1,450.00 to $3,600.00, which does not permit them to operate under Categories of Exempt Institutions- California Code of Regulations Section 94874(f)- An institution that does not award degrees and that solely provides educational programs for total charges of $2500.00 or less.

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.	**Violation:** **CEC 94886. Approval to Operate Required** *"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."* **CEC 94858. Private Postsecondary Educational Institution** *"Private postsecondary educational institution" means a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge.* **CEC 94817.5. Approved to Operate or Approved** *"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."* **CEC 94868. To Offer to the Public** *"To offer to the public" means to advertise, publicize, solicit, or recruit."* **CEC 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 October 28, 2016, the Institution submitted an Application for Verification of Exempt Status stating that the total cost of all programs did not exceed $2,500.00 and they did not participate in State or Federal financial aid. The Institution was verified exempt by the Bureau on November 1, 2016. On August 17, 2017, the Bureau received a complaint alleging the Institution was operating without Bureau approval. On December 19, 2018, Bureau staff reviewed the Institution's website and found that the Institution offers a Phibrows Microblading Training Course for $3,500.00 and a PhiBrows Training Course for $3,600.00.
	On December 27, 2018, Bureau staff corresponded, via email, with one of the Institution's owners. Bureau staff informed the Owner that the Institution was not operating pursuant to their exemption status. Bureau staff advised the Owner that the Institution was operating unapproved and would require Bureau approval to operate, as the Institution advertised courses that exceeded $2,500.00. The Owner requested Bureau staff to send an Application for Approval to Operate for an Institution Non-Accredited. As of May 14, 2019, the Institution continues to operate as an unapproved institution and is in violation of CEC section 94886.

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 www.usamicroblading.com and any other websites not identified here that are associated with the Institution, until an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone service numbers including but not limited to (559) 391-7997 that are associated with the Institution until 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 $10,000.00

TOTAL ADMINISTRATIVE FINE DUE: $10,000.00

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 **$10,000.00** 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 later.

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **June 13, 2019,** 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 14, 2019.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **June 13, 2019**. 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:

Ray Delaney, 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 Ray Delaney Citation Analyst, at 916-431-6946 or Ray.Delaney@dca.ca.gov.

OVR

Christina Villanueva
Discipline Manager

5/14/19
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