



Bureau for Private Postsecondary Education
1747 N. Market Blvd. Ste 225 Sacramento, CA 95834
P.O. Box 980818, West Sacramento, CA 95798-0818
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Shaan Hathiramani, Owner
Flockjay
209 Kearny St., 2nd Floor
San Francisco, CA 94108

INSTITUTION CODE: Unapproved
CITATION NUMBER: 2021129
CITATION ISSUANCE/SERVICE DATE: October 21, 2020
DUE DATE: November 20, 2020
FINE AMOUNT: \$ 15,000.00
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 Shaan Hathiramani, Owner, of Flockjay (Institution) located at 209 Kearny St., 2nd Floor, San Francisco, CA 94108 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 21, 2020, the Bureau received a complaint alleging that the Institution was violating Bureau laws and regulations by charging \$5,000.00 for tuition, or an upfront cost of \$0 with 10% of post-program gross income in 12 monthly payments not to exceed \$9,000.00.

Through the course of the investigation, the Bureau determined that the Institution was operating without Bureau approval and is not exempt under any provision of the Private Postsecondary Act of 2009.

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.	<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>

CEC Section 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 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 March 2, 2020, Bureau staff found that the Institution's website, www.flockjay.com, advertised tuition with options of \$5,000.00 upfront cost, or a \$0 upfront cost once the student obtains a job earning \$40,000.00 per year; the student is then required 10% of their income for the first year, with the total tuition amount not to exceed \$9,000.00.

On March 3, 2020, Bureau staff attempted to reach Institution staff by phone, however was unable to reach anyone. Bureau staff sent email correspondence to the Institution notifying them that a complaint had been filed with the Bureau. Later that same day, Bureau staff received a response from Institution staff stating that the Institution recently became aware of the Bureau and planned to sign up for the Bureau's Licensing Workshop.

On March 4, 2020, Bureau staff received additional email correspondence stating that the Institution had 95 students enrolled in three (3) separate cohorts, and upon request a student receives a certificate of completion from the program. In addition, Institution staff stated that a student choosing the \$0 upfront cost option agrees to pay 10% of their income, post-training, in 12 monthly payments, if the student earns at least \$3,333.00 per month (or \$40,000.00 per year). If a student has not provided 12 payments to the Institution within five (5) years, the Institution cancels the students' payment obligation.

On March 24, 2020, the Institution applied for Approval to Operate a Non-Accredited Institution to the Bureau.

On April 4, 2020, the Bureau mailed correspondence to the Institution stating the that Application for Approval of a Non-Accredited Institution had been reviewed and was considered incomplete. As a result, additional information was requested from the Institution.

To date, the Institution does not have a current Approval to Operate a private postsecondary institution, nor are they operating under the specification of the exemption under CEC section 94874(f).

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.flockjay.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, (510) 431-8145, 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 \$15,000.00

TOTAL ADMINISTRATIVE FINE DUE: \$15,000.00

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 **\$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.**

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 **November 20, 2020**, 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 **October 21, 2020**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **November 20, 2020**. 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:

Gabriella Perez 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 Gabriella Perez, Citation Analyst, at (916) 574-8969 or Gabriella.Perez@dca.ca.gov.

“Original signature on file”

“10/21/2020”

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