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

To: MTT Pham, LLC, Owner
Asian American International College of Beauty
7871 Westminster Blvd.
Westminster, CA 92683

INSTITUTION CODE: 3008411
CITATION NUMBER: 1819041
CITATION ISSUANCE/SERVICE DATE: November 7, 2018
DUE DATE: December 7, 2018
FINE AMOUNT: $ 5,000.00
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 of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to MTT Pham, LLC., Owner of Asian American International College of Beauty (Institution) located at 7871 Westminster Blvd., Westminster, CA 92683, pursuant to Business and Professions Code section 125.9; California Education Code (CEC) sections 94936 and 94932; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violations described below.

BACKGROUND

On May 2, 2018, the Bureau conducted an on-site investigation and unannounced compliance inspection at the Institution. During the unannounced compliance inspection staff requested specific items related to the School Performance Fact Sheet (SPFS) and Student Tuition Recovery Fund (STRF). The Institution did not have, and was unable to provide, the required documents to the Bureau staff by the conclusion of the unannounced compliance inspection.

The violations discovered on May 2, 2018 were subsequent to violations previously found during an announced compliance inspection on June 26, 2014. On June 26, 2014, Bureau staff conducted an announced compliance inspection at the Institution. During the inspection, staff discovered the Institution was teaching classes in Vietnamese. The Institution was approved by its accreditor, the National accrediting Commission of Career Arts & Sciences (NACCAS) to teach Cosmetology, Esthetician Instructor and Manicurist programs in English. The Institution's approval with the

Bureau is by means of accreditation, therefore the Bureau only approves programs authorized by the accreditor (NACCAS).

VIOLATION

#	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 Section 94896 Substantive Change for Institutions Approved by Means of Accreditation** *(a)An institution that has been granted an approval to operate by means of accreditation shall only make a substantive change in accordance with the institution's accreditation standards.* *(b) The institution shall notify the bureau of the substantive change on a form provided by the bureau.* **CEC Section 94894 Substantive Change Defined** *The following changes to an approval to operate are considered substantive changes and require prior authorization.* *(a)A change in educational objectives, including an addition of a new diploma or a degree educational program unrelated to the approved educational programs offered by the institution.* **5, CCR Section 71650 (d) Application for a change in Educational Objectives.** *An institution that has been granted an approval to operate by means of accreditation shall notify the Bureau of the substantive change within 30 days of that change on the Change in Educational Objectives form, by providing the information required in (c)(1) and (c)(10), and shall attach certification from the institution's accreditation agency demonstrating that the substantive change was made in accordance with the institution's accreditations standards, and complies with the Act and this Division.* On June 26, 2014, Bureau staff conducted an announced compliance inspection at the Institution. During the inspection, Bureau staff found that the Institution was teaching both the accreditor and Bureau approved courses in Vietnamese. The Institution did not have approval from NACCAS or the Bureau to teach its Cosmetology, Esthetician, Instructor or Manicurist programs in Vietnamese. On January 23, 2015, the Bureau received an Application for Change in Educational Objectives to add Vietnamese to the already approved English courses. The application included a certification from NACCAS authorizing the approved programs to be taught in Vietnamese. On June 10, 2015 the Application for Change in Educational Objectives was approved by the Bureau. The Institution failed to submit the proper application with substantiating documents from its accreditor, NACCAS, prior to offering its educational programs in Vietnamese and failed to notify the Bureau within 30 days of making that change. **Order of Abatement:** The Bureau orders that the Institution provide the Bureau with a policy that ensures that the Institution will properly notify the Bureau of any changes that affect their approval to operate by means of accreditation

	Assessment of Fine The fine for this violation is $0.00
2.	**Violation:** **5, CCR Section 74112 (m) Uniformed Data.** *(m)Documentation supporting all data reported shall be maintained electronically by the institution for at least five years from the last time the data was included in either an Annual Report or a Performance Fact Sheet, and shall be provided to the Bureau upon request; and the data for each program shall include at a minimum:* *(1) the list of job classifications determined to be considered gainful employment for the educational program;* *(2) student name(s), address, phone number, email address, program completed, program start date, scheduled completion date, and actual completion dates;* *(3) graduate's place of employment and position, date employment began, date employment ended, if applicable, actual salary, hours per week, and the date employment was verified;* *(4) for each employer from which employment or salary information was obtained, the employer name(s) address and general phone number, the contact person at the employer and the contact's phone number and email address, and all written communication with employer verifying student's employment or salary;* *(5) for students who become self-employed, all documentation necessary to demonstrate self-employment;* *(6) a description of all attempts to contact each student. or employer;* *(7) any and all documentation used to provide data regarding license examinations and examination results;* *(8) for each student determined to be unavailable for graduation or unavailable for employment, the identity of the student, the type of unavailability, the dates of unavailability, and the documentation of the unavailability; and* *(9) the name, email address, phone number, and position or title of the institution's representative who was primarily responsible for obtaining the students' completion, placement, licensing, and salary and wage data, the date that the information was gathered, and copies of notes, letters or emails through which the information was requested and gathered.* **5, CCR Section 71930 (e) Maintenance of Records.** *(e) All records that the institution is required to maintain by the Act or this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations.* **CEC 94929.7 Documentation of Performance Data** *(a) The information used to substantiate the rates and information calculated pursuant to Sections 94929 and 94929.5 shall do both of the following:* *(1) Be documented and maintained by the institution for five years from the date of the publication of the rates and information.* *(2) Be retained in an electronic format and made available to the bureau upon request.*

	(b) An institution shall provide a list of employment positions used to determine the number of graduates employed in the field for purposes of calculating job placement rates pursuant to this article. *(c) The bureau shall identify the specific information that an institution is required to document and maintain to substantiate rates and information pursuant to this section.* During the May 2, 2018 unannounced compliance inspection, Bureau staff requested the 2015/2016 SPFS supporting documentation. While Bureau staff was on site, the Institution attempted for 2.5 hours to create the SPFS supporting documentation. At the end of the unannounced compliance inspection the Institution was not able to produce the supporting documentation with the requirements of 5, CCR section 74112. As the Institution was unable to provide the supporting documentation when requested, it demonstrated that the Institution does not, and has not maintained, in electronic format, the required documentation for at least 5 years. **Order of Abatement:** The Bureau orders that the Institution maintain appropriate supporting documentation of student information for each student which includes: local or mailing address, address at the time of enrollment, home address, amount of STRF assessment collected, third-party payer identifying information, total institutional charges charged, and total institutional charges paid. The Institution must submit to the Bureau a copy of the supporting documentation for the 2015/2016 SPFS for each approved program. In addition, the Bureau orders that the Institution submit a written policy of how compliance with this code section will be maintained. **Assessment of Fine** The fine for this violation is $5000.00
3.	**Violation:** **5, CCR Section 76140 (a) Record-Keeping Requirements.** *(a) A qualifying institution shall collect and maintain records of student information to substantiate the data reported on the STRF Assessment Reporting Form and records of the students' eligibility under the Fund. Such records shall include the following for each student:* *1) Student identification number,* *(2) First and last names,* *(3) Email address,* *(4) Local or mailing address,* *(5) Address at the time of enrollment,* *(6) Home address,* *(7) Date enrollment agreement signed,* *(8) Courses and course costs,* *(9) Amount of STRF assessment collected,* *(10) Quarter in which the STRF assessment was remitted to the Bureau,* *(11) Third-party payer identifying information,* *(12) Total institutional charges charged, and* *(13) Total institutional charges paid.*

	5, CCR Section 71930 (e)Maintenance of Records. *(e) All records that the institution is required to maintain by the Act or this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations.* During the May 2, 2018 unannounced compliance inspection, Bureau staff requested the supporting documentation for STRF. The Institution was unable to provide Bureau staff with the supporting documentation to support the information provided on the STRF Assessment Reporting Form prior to the conclusion of the unannounced compliance inspection. **Order of Abatement:** The Bureau orders that the Institution maintain records of student information for each student which includes: local or mailing address, address at the time of enrollment, home address, amount of STRF assessment collected, third-party payer identifying information, total institutional charges charged, and total institutional charges paid. The Institution must submit evidence of compliance to the Bureau. In addition, the Bureau orders that the Institution submit a written policy of how compliance with this code section will be maintained. **Assessment of Fine** The fine for this violation is $0.00
	TOTAL ADMINISTRATIVE FINE DUE: $5000.00

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 **$5000.00** 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 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.**

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 **December 7, 2018**, 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 **November 7, 2018.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **December 7, 2018** . 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:

Gurinder Sandhu, 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 Gurinder Sandhu, Citation Analyst, at 916-431-6940 or Gurinder.Sandhu@dca.ca.gov.

Christina Villanueva
Discipline Manager

11/7/18
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