



JUL - 2 2019

Ms. Carrie Poole
Owner/CEO
Professional Career Training Institute
227 West Airtex Boulevard
Houston, TX 77090

SENT VIA UPS OVERNIGHT MAIL
Tracking # 1Z37X7Y30199587550
OPE-ID: 04082300

Dear Ms. Poole:

This is to inform you that the United States Department of Education (Department) is hereby imposing an emergency action against Professional Career Training Institute (Professional). The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(G), and the procedures for emergency action set forth in the Student Assistance General Provisions regulations at 34 C.F.R. § 668.83, for the reasons identified in Part I of this letter. As explained in Part II of this letter, for these same reasons, the Department intends to terminate the eligibility of Professional to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq.* (Title IV, HEA programs).

Under this emergency action, the Department withholds funds from Professional and its students and withdraws Professional's authority to obligate and disburse funds under the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grant (IASG), Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins), and William D. Ford Federal Direct Loan (Direct Loan). The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS Program. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, Professional is barred from initiating commitments of Title IV, HEA Program aid to students, whether by accepting Student Aid Reports under the Pell Grant Program or the TEACH Grant Program, by certifying applications for loans under the Direct Loan Program, or issuing a commitment for aid under the campus-based programs. Professional is also barred from using its own funds or Federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, or to credit student accounts with respect to such assistance. Further, Professional may not release to students Direct Loan proceeds and must return any loan proceeds to the Department. Finally, unless other arrangements are agreed to between Professional and the Department, Professional may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
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accordance with 34 C.F.R. § 668.26 for as long as the emergency action remains in effect.

In order to take an emergency action against an institution, a designated Department official must determine that immediate action is necessary to prevent the continued misuse of Federal funds, and that the likelihood of loss outweighs the importance of awaiting the outcome of the regulatory procedures prescribed for limitation, suspension, or termination actions. As the designated Department official, I have determined that immediate action is necessary to prevent misuse of Federal funds, and that the likelihood of loss outweighs the importance of these regulatory procedures for limitation, suspension, or termination.

I have based this decision upon reliable information obtained during a review and investigation that was conducted by the Department's Kansas City School Participation Division and Third-Party Servicer Oversight Group. As part of its review, the Department analyzed documentation that was obtained during on-site reviews of Professional, documentation and information obtained during the subsequent investigation of the issues initially identified during the review, information obtained during student and employee interviews, and information obtained from Workforce offices and apartment leasing offices. The information disclosed severe breaches of Professional's fiduciary duty to the Department, the various entities implementing the Workforce Innovation and Opportunity Act (WIOA) programs, and the institution's students. Foremost on the list of Professional's egregious misconduct was its attempted obstruction of the Department's review and investigation by intimidating and bribing students to not speak with Department officials, and its falsification of documents prior to the Department's program review. In addition, Professional, with the assistance of Helping Hands, Inc. (Helping Hands), used deceptive and misleading tactics to lure students into attending the institution by promising free apartments and other amenities while attending school.¹ Professional also misled students by promising they could obtain valid high school diplomas while attending the institution, but actually provided fake diplomas. In an effort to maximize its receipt of Title IV, HEA program funds, Professional illegally obtained Federal Direct Loan funds without students' knowledge, and improperly retained students' living expense funds. Professional also illegally obtained Pell Grant funds for students with prior bachelor's degrees, falsified students' Free Application for Federal Student Aid (FAFSA) applications, and made misrepresentations to students. Based on the violations outlined below, I have determined that an emergency action against Professional is warranted.

DERELICTION OF FIDUCIARY DUTY

Before Professional began participation in the Title IV, HEA programs, you signed a program participation agreement (PPA) with the Department stating that Professional would comply with all Title IV, HEA program requirements. These requirements mandate that Professional use funds received under the Title IV, HEA programs solely

¹ Helping Hands is purportedly a non-profit entity that assists individuals in need of housing.

for the purposes specified in each individual student assistance program, since the funds received under those programs are held in trust for the intended student beneficiary and the Secretary. 20 U.S.C. § 1094(a)(1); see generally 34 C.F.R. § 668.14. By entering into a PPA with the Department, Professional, and its officers, accepted the responsibility to act as fiduciaries in the administration of the Title IV, HEA programs. As fiduciaries, the institution and officers are subject to the highest standard of care and diligence in administering the Title IV, HEA programs and in accounting to the Secretary for the funds received. 34 C.F.R. §§ 668.82(a),(b).

Institutions participating in the Title IV, HEA programs have an obligation to fully cooperate with the Department, other governmental agencies, and accreditors when they are conducting oversight activities. 34 C.F.R. § 668.24(f). As a fiduciary, an institution is expected to operate in a forthright manner when dealing with the Department and other entities. Similarly, as a fiduciary, an institution must provide accurate and truthful information when recruiting students to attend the institution. See 34 C.F.R. Part 668, Subpart F.

In order to meet its responsibilities to the Department, an institution must also be capable of adequately administering the Title IV, HEA programs. In this regard, an institution must comply with all statutory and regulatory requirements applicable to the Title IV, HEA programs. 34 C.F.R. § 668.16(a). An institution must also administer the Title IV, HEA programs in which it participates with adequate checks and balances in its system of internal controls. 34 C.F.R. § 668.16(c)(1). This includes maintaining accurate and complete records supporting all Title IV, HEA program payments made to each student. See 34 C.F.R. §§ 668.16(d), 668.24. An institution's maintenance and submission of accurate student eligibility records is critical to the Department's oversight responsibilities. The Department relies on those records when determining if a student is eligible to receive Title IV, HEA program funds and in determining the amount he or she is entitled to receive.

Professional offers programs in Computer Programming and Software Development, Cisco Networking, Computer Support Specialist, Electrical Installer, and Building Maintenance Heating, Ventilation and Air Conditioning. These programs range in length from 900 clock hours/24 credit hours over 38 weeks to 1097 clock hours/29 credit hours over 40 weeks for full time students. Professional also offers a stand-alone English as a Second Language (ESL) Program that includes 1100 clock hours/29 credits over 56 weeks. Professional recruits heavily among low income, homeless, and unemployed individuals.

As discovered during the program review and subsequent investigation, Professional repeatedly breached its fiduciary duty to the Department and its students. Professional's misconduct is exemplified by its efforts to obstruct the Department's review and investigation, its improper inducement of low income and homeless students to enroll by promising free housing and valid high school diplomas, its unauthorized submission of loan requests and documents, its falsification of student Free Applications for Federal

Student Aid (FAFSAs) to illegally obtain Title IV, HEA program funds to which it was not entitled, its failure to timely pay student credit balances to its needy students, its falsification of records to mask its egregious misconduct, its failure to maintain accurate records, and its misrepresentations to students.

A. Obstruction of Department Program Review and Falsification of Documents

Institutions participating in the Title IV, HEA programs are subject to program reviews conducted by Department staff. During these reviews, Department staff request and examine institutional and student records to determine whether the institution is complying with Title IV, HEA requirements, is capable of adequately administering the Title IV, HEA programs and is adhering to a fiduciary standard of conduct. Institutions must fully cooperate with these reviews by providing records and permitting Department staff to interview employees and students. See 34 C.F.R. § 668.24(f). As a fiduciary, the Department expects an institution to fully cooperate with staff and to respond to all requests and questions in a truthful and forthright manner.

On February 5, 2019, the Department's Kansas City and Third-Party Servicer Oversight teams announced to Professional that they would be conducting a program review at the institution during the week of March 4, 2019. Professional was provided the general outline of the review and the types of documents the institution was required to have available for inspection. The Department conducted its initial review during the first week of March. During the review, the Department obtained a sample of 30 student files, which is standard for a routine program review. In addition, the Department conducted employee and student interviews. When conducting student interviews, the Department randomly selects students from a sample and requests that the institution provide access to the requested students. Department staff became concerned when officials from Professional told them that several students that the Department had requested to interview were not present at the institution. The Department's staff's concern became even greater when they were approached by some students who wanted to talk to them away from the view of Professional staff after the reviewers left the institution for the day.

After reviewing the documentation that was obtained during the visit and speaking with some students who had complaints about the school, Department staff determined that a second, unannounced visit was warranted. Department staff visited the school again on May 13-14, 2019. During that review, staff obtained a few hundred additional files and additional financial documentation to review so that staff could obtain an accurate picture of Professional's actions and compliance with Title IV, HEA requirements. Immediately following the visit, staff interviewed numerous students and former employees regarding their experience at the institution. These interviews provided the Department a clear picture of Professional's malfeasance.

As noted above, the Department provided Professional a one month notice of its planned program review visit. During interviews, Professional students and former employees informed the Department that Professional staff, including the owner, spent that month “cleaning” files for the review. Professional’s activities included calling students into the office to redo and sign paperwork for their files. In particular, students were required to redo their school applications. Specifically, these students were told to replace the high school they had initially entered on the document, where the student had attended but did not graduate, with University Park Academy.² This was done to mislead the Department into believing that the students had valid high school diplomas when they did not. Professional also removed entries on student account cards to hide housing charges it appears the institution was improperly using Title IV funds to cover.

In addition to falsifying documentation to cover its illegal activities, Professional took actions in an attempt to thwart the Department’s review of the institution. The night before Department staff was scheduled to visit in March, Professional texted all students and told them it was mandatory for them to be at the school from 8 a.m. to 2 p.m. during the week the Department was visiting or they would lose spring break. In the normal course at the institution, few students attended on a regular basis, and classes were only held from 9 a.m. to 1 p.m. In addition you, as the owner of the institution, also held a meeting and told students that if interviewed they were not to tell Department staff about Helping Hands or the payments for apartments, or they would lose their housing. Further, to avoid having students available to speak to the Department staff, Professional sent an entire class home for the day. In the case of one student, who had been outspoken about her concerns regarding the institution, you gave her a \$910 check to stay away from the school while the Department was visiting, and said that if the Department did interview her at some point she should “not rat her out.”

Subsequent to the initial review, Professional continued its obstructionist behavior. A second student, who had issues with the school about his apartment and who had been regularly absent from school, was called in to the school in early May by Karl Minor, head of student services. Mr. Minor told him “it was a blessing” that the institution found more money for him, and provided him a check for \$600. Mr. Minor also indicated that he should not talk to the Department staff.

During the week of May 12, 2019, the Department began interviewing students away from the institution. Students informed Department staff that both you and Mr. Minor asked them if the Department had interviewed them and quizzed them about what was said. In one case, Professional staff provided a student an overdue rent payment immediately after asking whether she had spoken to the Department. During that same week, you called several students in and provided them with University Park Academy diplomas or transcripts that the students had not previously seen.

After interviewing students, it was also discovered that that Professional had falsified numerous other documents in an attempt to prevent the Department from uncovering its

² A full description of the issues surrounding University Park Academy is outlined below.

misconduct. Professional falsified student ledgers and check receipts to make it appear that the institution had paid credit balances owed to students when it had not.

Professional also falsified student transcripts, attendance records, and leave of absence forms. Falsified documentation was discovered in the files of Students (b)(6)

(b)(6) Since the Department was only able to interview a limited number of students, it is likely the falsification of student eligibility documentation was more widespread than discovered.

In addition to falsifying documentation relied on by the Department for determining the eligibility of students for Title IV, HEA program disbursements, Professional falsified documentation presented to the Workforce office to support the payment of funds under the WIOA program. As outlined more fully below, in order to maximize its receipt of funds, Professional required virtually all students to apply for Workforce funds. Under WIOA requirements, only certain programs are eligible, and students must apply for the funds prior to beginning a program of study. Students must also provide weekly attendance reports to the Workforce office. Students (b)(6) and (b)(6) informed the Department that Professional staff provided them documents to present to Workforce that stated a falsified program of study, falsified start dates or falsified attendance records, in order to ensure that the students, and Professional, would receive, and continue to receive, WIOA funds. As with the Title IV documentation, since the Department was only able to interview a limited number of students, it is likely that the falsification of Workforce documents was also more widespread than what was discovered.

The information obtained during the student interviews also establishes that Professional inflated the hours/credits it presented to the Department regarding the length of its various programs of study. The program length used to determine the amount of aid a student would receive was based on a schedule in which a student attended 6 hours a day and 4 days a week. Students and instructors told Department staff that classes were normally held from 9 a.m. to 1 p.m., Monday through Thursday. This schedule results in a student attending class 8 hours a week less than what was presented to the Department. Professional attempted to conceal its inflation of hours by requiring students to attend class from 8 a.m. to 2 p.m. during the program review.

Professional's widespread falsification of records and its repeated attempts to thwart the Department's review and investigation establish that the institution has completely abandoned its fiduciary obligations to the Department. Professional's malfeasance will not be tolerated.

B. Unethical Inducement of Students to Attend Professional

As part of its fiduciary obligations under the Title IV, HEA programs, an institution is expected to provide accurate and truthful information to its students and not to act in a manner that is harmful to the beneficiaries of the Title IV, HEA programs. Although the exact nature of the arrangement between Professional and the organization called Helping

Hands is unclear, it appears the two parties entered into an arrangement to induce students to attend the institution. In some cases, students who were homeless or looking for help with housing went to Helping Hands to obtain housing services and were directed to Professional to enroll. In some cases, students first visited Professional and were then directed to Helping Hands for assistance. Although the facts varied slightly from student to student, the general offer to the students was the same. Students were told that they would be provided free housing for a year if they attended Professional. In some cases, students were also told that their utilities would be covered, and they would be provided furniture, although those items were never provided.

To apply for the housing at Helping Hands, students were required to provide their Federal Emergency Management Agency (FEMA) numbers and to enroll at Professional. In most cases, students would receive their apartments after attending Professional for a month. Students were required to pay \$200 to Helping Hands in order to obtain their apartment keys although students were unclear what those funds were paid for. In most cases, Helping Hands signed the lease and the students were only listed as occupants. In some cases, the student was not listed on the lease at all.

Offers of housing assistance were made to homeless students and students who were struggling financially. Officials of Professional and Helping Hands were well aware of the students' financial circumstances when making the offer, and it is clear that the free apartments were an inducement for the students to attend the institution. Students repeatedly told Department staff that they would not have attended Professional if they had not been offered free housing to do so. Housing was promised to Students (b)(6)

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and

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After the Department's review was announced in February, students were informed that Helping Hands was no longer going to assist with the rent and that their apartments were no longer free. Students would now be required to pay half of their monthly rent, and Professional would pay the other half. This placed students in a severe financial bind, since they had counted on the rent to be paid while attending school. During the next few months some students were told that their funding had run out and that no more rent payments would be made. In other cases, the rent was routinely paid late. By the time Department staff began interviewing students in mid-May, several students had been, or were being, evicted from their apartments.

The Department has been unable to determine exactly where the funding came from for the apartments. During the initial review, Professional told Department staff that it had nothing to do with housing for Professional students. Although it initially appeared that Helping Hands was providing the funding for the students' apartments, the organization stopped its relationship with Professional in February 2019. When students asked about the source of funding for their apartments, Professional stated that it was coming from some other non-profit entity but refused to provide the name. After the Department began its interviews and students became aware that they had Title IV credit balances due

to them, Professional informed the students who requested their funds that the credit balances were being used to pay for the students' apartments. Students never authorized Professional to use their Title IV, HEA credit balance funds for rental payments as the students were told that the apartments would be provided for free. Further, most students were not even aware that credit balances existed since they did not apply for Direct Loans or authorize Professional to apply for loans on their behalf.

Professional and Helping Hands induced students into enrolling at the institution by claiming that the students would receive rent-free apartments. The entities failed to fulfill their promises to the extreme detriment of the students in question. Whether Title IV, HEA funds were improperly used to pay the rent, or Helping Hands simply withdrew its financial support in February 2019, the students were harmed by their conduct.

C. Falsification of Student Eligibility Information on FAFSA

Only eligible students enrolled in eligible programs may receive Title IV program funds. 20 U.S.C. § 1091; 34 C.F.R. § 668.32. The amount of Title IV, HEA program assistance received by an eligible student is based on the student's cost of attendance at the institution, the student's financial need, and the student's expected family contribution (EFC). 20 U.S.C. §§ 1087ll-1087ss. A student's EFC is affected by factors such as marital status, dependency status, household size, and student, spouse, and parent income. The falsification of any of these factors can significantly affect the amount of Title IV, HEA program funds a student is entitled to receive.

In order to obtain Title IV, HEA program funds a student must complete a FAFSA. As part of the application process, students who are married must include their spouses' income on the FAFSA to be included in the need calculation. In general, students under the age of 24 are considered to be dependent students reliant on their parents. Parental income must be included on the application for these students. The Title IV statute sets forth requirements that must be met in order to process students as independent, rather than dependent, for Title IV, HEA program purposes. Under those requirements, a student can be considered independent if he/she is a ward of the court. 20 U.S.C. § 1087vv(d)(B). If a student meets this criteria, the student can apply for financial aid as an independent which allows the student to include only his/her income on the application. Dependent students must include their parents' income, as well as their own, for purposes of determining financial need and EFC.

To be eligible, students must also be academically qualified to study at a postsecondary level. In this regard, and as relevant here, a student must have a high school diploma or its equivalent to meet this requirement. 34 C.F.R. § 668.32(e)(2). Students who have a prior bachelors or professional degree are not eligible for Pell Grants. 34 C.F.R. § 668.32(c)(2). Questions related to the various eligibility requirements are included on the FAFSA. The Department relies on the information contained in the FAFSA for determining whether a student is eligible to receive Title IV, HEA program funds and for determining the correct amount of Title IV, HEA funds a student is entitled to receive.

When a student begins the process of applying for Title IV, HEA funding, he/she establishes an account in the Department's application system so that the FAFSA can be completed by the students/parents and be submitted for processing. During this process, the student selects a password, security questions, and PIN which are used to ensure the security of the information being transmitted to the Department. This information is for the student's use only and is not to be shared with institutions. Although institutions can assist students in filling out the FAFSA by answering the students' questions, the student should be the one entering information into the application and certifying to its accuracy. Institutions should not be accessing a student's application or making changes to the information in that document.

During the course of its review, the Department found that the staff at Professional improperly established FAFSA security information for students or obtained that information from the students. Students interviewed by the Department also stated that the Financial Aid Director at Professional asked them the FAFSA questions, but that she actually entered the information into the FAFSA on the computer. Students did not review or certify the information prior to the Financial Aid Director submitting it to the Department. As evidenced by the falsification discovered for the students outlined below, it is clear that Professional operated in this manner to make it easier to illegally obtain Title IV funds.

In the files reviewed, the Department found that Professional falsified the FAFSA for Students (b)(6) and (b)(6) by entering single as marital status when the students were actually married. By entering this false information, the FAFSA was processed without the spouse's income which could significantly affect the amount of Title IV aid the student was entitled to receive. In the case of Student (b)(6) the institution falsified the FAFSA to state the student was a ward of the court when she was not. This permitted the institution to process the student's FAFSA as independent so that the parental income would not need to be included and the student could receive more financial aid. In the case of Students (b)(6)

(b)(6)

(b)(6) the institution falsely entered that the students were home-schooled, had GEDs, or had other valid high school diplomas when, as outlined below, they did not. Without a high school diploma, these students would not have been eligible for Title IV, HEA program aid. The FAFSAs for Students (b)(6)

(b)(6)

(b)(6) stated that the students did not have prior bachelor's degrees when they actually earned those degrees in the countries where they previously lived. If the correct information had been entered on the FAFSA, these students would not have been eligible for the Pell funds that were disbursed. By falsifying these students' FAFSAs, Professional illegally obtained Title IV, HEA program funds to which it was not entitled.

Professional's fraudulent scheme to illegally obtain Title IV, HEA funds is in direct conflict with the institution's fiduciary responsibility to the Department. Consequently, Professional cannot continue its participation in the Title IV, HEA programs.

D. Illegal Certification of Direct Loans

A student is eligible to receive Federal Direct Subsidized or Unsubsidized Loans (Direct Loans) if he/she meets relevant Title IV eligibility criteria. 34 C.F.R. § 685.200(a)(1)(ii). To obtain the loan, the student must fill out a FAFSA and a Master Promissory Note (MPN). 34 C.F.R. §§ 685.201(a)(1),(2)(ii). A student completes an MPN electronically in his/her federal financial aid account and the document is electronically signed. If a student is eligible for a Direct Loan, the institution he/she is attending must originate a loan record and submit the record in the Department's systems. 34 C.F.R. § 685.201(a)(2)(i). Prior to originating the loan, the institution must ensure that the student is eligible for the loan, and ensure that the student has an MPN and, if applicable, transmit the MPN to the Department. 34 C.F.R. §§ 685.201(a)(2)(ii), 685.301(a)(2). The institution is obligated to ensure that the information it submits to the Department regarding the loan is complete and accurate. 34 C.F.R. § 685.301(a)(1).

As outlined above, students informed the Department that a financial aid employee at Professional either established FAFSA accounts for students or obtained the students' login information from them and she, not the student, entered the information into the computer and submitted it to the Department. The students had no knowledge of what information was submitted allegedly on their behalf. Not only did the school's access to students' accounts allow it to falsify student FAFSA data, it also permitted the institution to illegally obtain Direct Loans without students' knowledge.

Students repeatedly informed Department staff that they were unaware that Federal loans had been obtained in their names. When the students enrolled, Professional staff told them that they would not have to pay any money because Workforce and Pell Grant funds would cover the costs of the program. In some cases, students were told that the school would discount the program because of the impact of Hurricane Harvey. Students did not apply for loans, did not complete and sign MPNs at Professional, and did not authorize anyone at Professional to do so on their behalf. Despite this fact, Professional certified loans and drew down Direct Loan funds that students did not request or want. Since the students were not provided account cards, even when students repeatedly asked for them, they were unaware that they had loans until Department staff informed them of that fact during interviews. Professional's egregious misconduct has placed an undue financial burden on its already disadvantaged students.

Professional's callous attitude for the welfare of its students is exemplified by its actions with respect to Student (b)(6). This student was scheduled to graduate from Professional in June. Since she did not believe that she received sufficient training to obtain a job, she planned to attend another institution to continue her education. When she logged into her FAFSA account to fill out the application so that she could apply for aid to attend another

institution, the system informed her that she could not complete another application until the 2020-2021 award year because the 2019-2020 application had already been submitted. It is clear that despite the fact the student was not planning to attend Professional for the 2019-2020 award year, the school had already submitted her FAFSA without her knowledge. This would permit Professional to draw down funds the student needed to attend another institution. Without those needed funds, the student would not be able to continue her education at another institution and obtain the job that she sought.

Professional illegally obtained Direct Loans on behalf of Students (b)(6) (b)(6) Although Department staff was only able to interview and confirm that Professional illegally obtained Direct Loan funds for these students, the Department suspects that the institution obtained loans in much the same manner for numerous students who attended.

Professional's actions with respect to the Direct Loan program exhibit a complete disregard for the welfare of its students. Further, the institution's actions establish that it cannot be trusted as a participant in the Title IV, HEA programs, and its participation must be terminated.

E. Fraudulent High School Diplomas

Only eligible students may receive Title IV, HEA program funds. 20 U.S.C. § 1091; 34 C.F.R. § 668.32. To be eligible, students must be academically qualified to study at a postsecondary level. In this regard, a student must have a high school diploma or its equivalent or be beyond the age of compulsory school attendance and have the ability to benefit from the program of instruction that is being provided. See 20 U.S.C. § 1091; 34 C.F.R. § 668.32(e). Prior to July 1, 2012, a student who did not have a high school diploma or its equivalent could meet this requirement by passing an independently administered ability to benefit (ATB) test prior to receiving Title IV, HEA program funds. 34 C.F.R. § 668.32(e)(2) (2011). Subsequent to 2012, the ATB alternative was eliminated, and, as relevant here, a student must have a high school diploma or its equivalent to be eligible for Title IV, HEA funds. 34 C.F.R. § 668.32(e)(2).

During the course of its review, the Department found that Professional used fraudulent diplomas as a basis for student eligibility for Title IV, HEA program funds. When students informed Professional staff that they did not have a high school diploma or GED, the students were told that they could obtain their diplomas through a program at Professional. The alleged program varied from student to student and resulted in a "diploma" from an entity called University Park Academy. In some cases, students were provided packets of work to complete, and the packets were completed simultaneously with their educational program work at Professional. When students completed the packets, the work was turned in to employees or you for grading. Timeframes for completing the packets ranged from a couple of days to a couple of weeks. Students were notified immediately that they had passed and would be receiving a high school diploma from University Park Academy.

Some of the students completing the packets were also required to take a test on a computer at Professional. Students completed the tests in about an hour and were told they passed immediately by either an employee of Professional or by you. In other cases, students only took the computer test and were not required to complete the packets. These students were also told immediately after the test that they had passed and would be receiving the high school diploma. In all cases, the students were told they would not receive the physical diploma until they had completed their program of study at Professional. From the evidence the Department obtained, it appears the diplomas are being printed at Professional and do not even come from University Park Academy.

The Department also uncovered a number of instances where Professional did not even bother to have students complete sham work or tests and simply put a University Park Academy diploma or transcript in the student's file. When questioned about these diplomas, students informed Department staff that they had either never seen the document or were given the diploma or a transcript at the time the Department was conducting its review and interviewing students. The Department also obtained evidence that Professional was also placing fake diplomas from Knowledge First Empowerment Academy in student files.

From the evidence uncovered during the Department's review, it is clear that the diplomas from both University Park Academy and Knowledge First Empowerment Academy are fraudulent. Fraudulent/invalid diplomas were used as the basis of Title IV, HEA program eligibility for Students (b)(6)

(b)(6)

Since these students do not actually have a valid high school diploma, they were ineligible for the Title IV funds disbursed.

As noted above, in an attempt to hide its illegal misconduct, Professional falsified FAFSAs to make it appear that students had valid high school diplomas. In addition, Professional put incorrect dates on the University Park diplomas and transcripts, and had the students redo school applications prior to the Department's review.

F. Illegal Retention of Student Credit Balances

If an institution disburses Title IV, HEA program funds by crediting a student's account and the total amount of all Title IV program funds credited exceeds the amount of tuition and fees, room and board, and other authorized charges the student is required to pay, the institution must pay the resulting credit balance directly to the student or parent. These credit balances must be paid as soon as possible but no later than 14 days after the balance occurred or 14 days after the first day of classes in a payment period if the balance occurred before that time. 34 C.F.R. § 668.164(h). Institutions may hold credit balance funds to cover future payment period charges if they obtain a valid authorization from the student. 34 C.F.R. § 668.165(b).

As set forth above, to maximize the amount of funds it was receiving, Professional required students to visit the Workforce office and apply for grants provided under WIOA. Students who participated in the WIOA programs received a grant amount based on the program they enrolled in at Professional. In general, the students received \$6,000 for payment towards the tuition cost of their educational program. Most of the students also received Pell and Direct Loan funds that covered remaining tuition costs. As required by the Title IV, HEA program regulations, any funds received over the amount paid to tuition costs and allowable institutional charges, must be disbursed to the students within the required timeframes.

In reviewing the student files, the Department discovered that Professional illegally retained students' Title IV, HEA credit balances. For example, Student (b)(6) was enrolled in the Electrical Installer and Servicer Technician program which cost \$15,500. The student received \$6,000 in Workforce funds that was paid for tuition costs, and \$15,497 in Title IV, HEA program funds that could be applied to the remaining institutional charges. This left a remaining balance of \$5,997. Professional failed to disburse this money to the student, despite the fact that the student needed the funds for living expenses. Similarly, Professional failed to pay the credit balances for Students (b)(6)

(b)(6)	
(b)(6)	Professional also paid credit balances late for Students (b)(6)
(b)(6)	

During the course of the program review, Professional provided the Department student file documentation which included a credit balance waiver document. This was presented to show that students signed waivers to permit Professional to retain the credit balances until the end of their programs. Students repeatedly told Department officials that no one at the institution explained that form to them. Staff at Professional would provide a stack of documents to the students and just tell them to sign them. Students stated that had they known the form would permit Professional to keep their living expense money they would not have signed the document. Students also informed Department staff that when they asked to see their ledgers to find out how much aid money they received, the school refused to provide the document. By refusing to provide the students their ledger cards, Professional hid the fact that it was retaining funds that rightfully belonged to the students.

Professional's actions regarding the payment of student credit balances exemplifies its blatant disregard for the needs of its students, and is in direct conflict with a fiduciary standard of conduct.

G. Professional Illegally Disbursed Pell Grant Funds to Students with Prior Bachelor's Degrees

Only eligible students may receive Title IV, HEA program funds. 20 U.S.C. § 1091; 34 C.F.R. § 668.32. In this regard, the regulations set forth specific requirements that must

be met in order for a student to be eligible to receive Title IV, HEA funds. For purposes of the Federal Pell Grant Program (Pell), a student is not eligible for those funds if he/she has already earned a baccalaureate or first professional degree. 34 C.F.R. § 668.32(c)(2).

As part of its fiduciary obligation to the Department, Professional was required to ensure that the institution only sought and disbursed Title IV, HEA funds to students who met *the requisite eligibility requirements*. Professional continually breached its fiduciary duty to the Department by disbursing Pell funds to students who had previously earned a baccalaureate or first professional degree.

During the course of its review, the Department discovered that Professional disbursed Pell funds to a number of students who earned the equivalent of a bachelor's degree prior to emigrating to the United States. When these students enrolled at Professional, they initially filled out a document called a Pre-Qualification Application. That document included a section for prior education including that obtained at a college or university. For a number of students reviewed, this document clearly contained information establishing that the student had previously earned a bachelor's degree. Other documents in the files also established that students had the equivalent of a bachelor's degree or worked in jobs that required a bachelor's degree prior to emigrating to the United States. In other cases, students confirmed they had the equivalent of a bachelor's degree during interviews with Department staff.

Students (b)(6) are prime examples of Professional's misconduct. In the case of student (b)(6) the file included her medical school diploma, and her Pre-Qualification Application and English as a Second Language Evaluation Form clearly establish the student had a medical degree from Cuba. Student (b)(6) Pre-Qualification Application and Record of Previous Education and Training Document establish that she had over 8 years of post-high school education in nursing in El Salvador. The student confirmed that she has a nursing degree during an interview with Department staff. Since the students had prior bachelor's degrees they were ineligible for the Pell funds disbursed. Illegal Pell disbursements were also made for Students (b)(6)

(b)(6) As outlined above, Professional attempted to mask its misconduct by falsifying the students' FAFSAs.

Professional's actions with respect to these students exemplify its blatant disregard for its responsibilities to the Department, and further establish that the institution cannot be trusted with Title IV funds.

G. Misrepresentation

Inherent in a fiduciary standard of conduct is the requirement that an institution operate in a forthright and truthful manner when dealing with students. In this regard, institutions are prohibited from making misrepresentations to students, or prospective students, regarding their educational programs, the financial charges assessed by the institution, or the employability of its graduates. 34 C.F.R. §§ 668.71-668.74. Department reviewers

discovered that Professional misled students regarding key elements of their educational programs and financial charges.

The Department discovered through student interviews that although Professional promised the students that they would receive excellent training that would enable them to obtain jobs in their fields, the actual training fell far short of that standard. Many of the students interviewed felt that they did not receive the training necessary to work in the field for which the educational program was supposed to prepare them. For example, all students enrolled in a program of study would be placed in the same classroom for instruction no matter when they started. As a result, instructors were forced to teach beginning and advanced students at the same time, which made it virtually impossible for the students to progress in the program. Other instructors failed to teach at all, and students simply slept or played on their phones during class. Further, Professional failed to have the equipment necessary for the students to adequately learn the skills which the program was supposed to provide. The limited equipment that was available was provided by the instructors themselves rather than Professional

With regard to financial charges, Professional falsely assured students that their programs would be paid in full by Pell and WIOA funds when the institution was actually obtaining Direct Loan funds on behalf of the students. Professional failed to provide a full accounting of the costs of its programs and the amount of financial assistance the students would receive. In the few instances where a student was aware that he/she was receiving a loan, the student was unaware of the amount of the loan taken or whether there were funds available from those loan proceeds to pay for living expenses.

Professional's repeated misrepresentations underscore its complete disregard for the welfare of its students, most of whom are disadvantaged individuals who needed training to become successful members of the workforce. Professional's misrepresentations further highlight the need for this emergency action.

This emergency action is effective on the date of this letter, which is the date of mailing, and will remain in effect until either a decision to remove the emergency action is issued in response to a request from Professional to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated by Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA program funds.

Professional may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me via the U.S. Postal Service or an express mail service at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Enforcement
830 First Street, NE (UCP-3, Room 84F2)
Washington, DC 20002-8019

If Professional requests a show cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. Professional is entitled to be represented by counsel at the hearing and otherwise during the show cause proceeding.

II.

The Department intends to terminate Professional's eligibility to participate in the Title IV, HEA programs for all the reasons stated in Part I of this notice. The Department is taking this termination action under the authority of 20 U.S.C. § 1094(c)(1)(F) and the Department's regulations at 34 C.F.R. Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs. Initiation of this termination action means that the emergency action will remain in effect until completion of the termination proceeding, unless the emergency action is otherwise lifted. 34 C.F.R. § 668.83(f)(1). The termination proceeding includes any appeal to the Secretary.

The eligibility of Professional to participate in the Title IV, HEA programs will terminate on July 23, 2019 unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. Professional may submit both a written request for a hearing and written material indicating why the termination should not take place. If Professional chooses to request a hearing or to submit written materials, you must write to me at the address in Part I of this letter.

If Professional requests a hearing, the case will be referred to the Office of Hearings and Appeals. That office will arrange for assignment of Professional's case to an official who will conduct an independent hearing. Professional is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If Professional does not request a hearing, but submits material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 668.94.

Ms. Carrie Poole
Professional Career Training Institute
Page 17

If you have any questions or desire any additional explanation of Professional's rights with respect to these actions, please contact Kathleen Hochhalter at the address provided in this letter or by telephone at (303) 844-4520.

Sincerely,

(b)(6)

Susan D. Crim, Director
Administrative Actions and Appeals Service Group

Enclosure

cc: Gary Puckett, Executive Director, Council on Occupational Education (COE), via email at gary.puckett@council.org
Edward Serna, Deputy Executive Director, Texas WorkForce Commission
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov



DEC - 6 2018

Mr. Paul Bonagura
President
RWM Fiber Optics, Inc.
16627 South Avalon Blvd. #A
Carson, California 90746

SENT VIA UPS OVERNIGHT MAIL
Tracking # 1Z37X7Y30198857297
OPE-ID: 04150300

Dear Mr. Bonagura:

This is to inform you that the United States Department of Education (Department) is hereby imposing an emergency action against RWM Fiber Optics, Inc. (RWM). The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(G), and the procedures for emergency action set forth in the Student Assistance General Provisions regulations at 34 C.F.R. § 668.83, for the reasons identified in Part I of this letter. As explained in Part II of this letter, for these same reasons, the Department intends to terminate the eligibility of RWM to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq.* (Title IV programs).

I.

Under this emergency action, the Department withholds funds from RWM and its students and withdraws RWM's authority to obligate and disburse funds under the following Title IV programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grant (IASG), Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins), and William D. Ford Federal Direct Loan (Direct Loan). The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS Program. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, RWM is barred from initiating commitments of Title IV Program aid to students, whether by accepting Student Aid Reports under the Pell Grant Program or the TEACH Grant Program, by certifying applications for loans under the Direct Loan Program, or issuing a commitment for aid under the campus-based programs. RWM is also barred from using its own funds or Federal funds on hand to make Title IV program grants, loans, or work assistance payments to students, or to credit student accounts with respect to such assistance. Further, RWM may not release to students Direct Loan proceeds and must return any loan proceeds to the lender. Finally, unless other arrangements are agreed to between RWM and the Department, RWM may not disburse or obligate any additional Title IV program funds to satisfy commitments in

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
StudentAid.gov

accordance with 34 C.F.R. § 668.26 for as long as the emergency action remains in effect.

In order to take an emergency action against an institution, a designated Department official must determine that immediate action is necessary to prevent the continued misuse of Federal funds, and that the likelihood of loss outweighs the importance of awaiting the outcome of the regulatory procedures prescribed for limitation, suspension, or termination actions. As the designated Department official, I have determined that immediate action is necessary to prevent misuse of Federal funds, and that the likelihood of loss outweighs the importance of these regulatory procedures for limitation, suspension, or termination.

I have based this decision upon reliable information obtained during a review and investigation that was conducted by the Department's San Francisco/Seattle School Participation Division. As part of its review, the Department analyzed documentation that was obtained during an on-site review of RWM, documentation and information obtained during the subsequent investigation of the issues initially identified during the review, information obtained during student and employee interviews, information obtained from various WorkSource offices and the Department of Labor, and documentation provided by RWM in its Heightened Cash Monitoring 2 (HCM2) submissions. The information disclosed severe breaches of RWM's fiduciary duty to the Department, the various entities implementing the Workforce Innovation and Opportunity Act (WIOA) programs, and the institution's students. Specifically, RWM repeatedly falsified students' Free Application for Federal Student Aid (FAFSA) applications to illegally obtain Title IV funds, illegally retained students' credit balances, falsified student eligibility documentation, and made multiple misrepresentations to its students. Based on the violations outlined below, I have determined that an emergency action against RWM is warranted.

I. DERELICTION OF FIDUCIARY DUTY

Before RWM began participation in the Title IV, HEA programs, you signed a program participation agreement (PPA) with the Department stating that RWM would comply with all Title IV program requirements. These requirements mandate that RWM use funds received under Title IV solely for the purposes specified in each individual student assistance program, since the funds received under those programs are held in trust for the intended student beneficiary and the Secretary. 20 U.S.C. § 1094(a)(1); see generally 34 C.F.R. § 668.14. By entering into a PPA with the Department, RWM, and its officers, accepted the responsibility to act as fiduciaries in the administration of the Title IV programs. As fiduciaries, the institution and officers are subject to the highest standard of care and diligence in administering the Title IV, HEA programs and in accounting to the Secretary for the funds received. 34 C.F.R. § 668.82(a) and (b).

In order to meet its responsibilities to the Department, an institution must be capable of adequately administering the Title IV programs. In this regard, an institution must

comply with all Title IV statutory and regulatory requirements. 34 C.F.R. § 668.16(a). An institution must also administer the Title IV programs in which it participates with adequate checks and balances in its system of internal controls. 34 C.F.R. § 668.16(c)(1). This includes maintaining accurate and complete records supporting all Title IV payments made to each student. See 34 C.F.R. §§ 668.16(d), 668.24. An institution's maintenance and submission of accurate student eligibility records is critical to the Department's oversight responsibilities. The Department relies on those records when determining if a student is eligible to receive Title IV funds and in determining the amount they are entitled to receive.

RWM offers courses including Fiber Optic Broadband Technician, Broadband Cable Television & Satellite Technician, Home Audio and Video Technician, Security, Surveillance & Alarm Technician, and Communications Technician, among others. RWM recruits heavily among veterans and displaced workers. In this regard, the institution cultivates contacts at various local WorkSource and youth employment program offices that encourage individuals to inquire about the educational opportunities offered at RWM. As a result, the majority of the students who attend RWM are veterans, youth, and displaced workers seeking to obtain training to enter or re-enter the workforce.

As discovered during the program review and subsequent investigation, RWM repeatedly breached its fiduciary duty to the Department and its students. RWM's misconduct is exemplified by its falsification of student FAFSAs to illegally obtain Title IV funds to which it was not entitled, its failure to timely pay student credit balances to its needy students, the false certification of its HCM2 requests, its falsification of records to mask its egregious misconduct, its failure to maintain accurate records, and its multiple misrepresentations to students.

A. Falsification of Student Eligibility Information on the FAFSA

Only eligible students enrolled in eligible programs may receive Title IV program funds. 20 U.S.C. § 1091; 34 C.F.R. § 668.32. The amount of Title IV assistance received by an eligible student is based on the student's cost of attendance at the institution, the student's need, and the student's expected family contribution (EFC). 20 U.S.C. §§ 108711-1087ss. A student's EFC is affected by factors such as dependency status, household size, and student and parent income. The falsification of any of these factors can significantly affect the amount of Title IV funds a student is entitled to receive.

In general, students under the age of 24 are considered to be dependent students reliant on their parents. The Title IV statute sets forth requirements that must be met in order to process students as independent, rather than dependent, for Title IV purposes. Under those requirements, a student can be considered independent if he/she has legal dependents other than a spouse. 20 U.S.C. § 1087vv(d). If the student meets these criteria, the student can apply for financial aid as an independent student which allows the student to include only his or her income on the application. Dependent students

must include their parents' income, as well as their own, for purposes of determining financial need and EFC.

To be eligible, students must also be academically qualified to study at a postsecondary level. In this regard, and as relevant here, a student must have a high school diploma or its equivalent to meet this requirement. 34 C.F.R. § 668.32(e)(1). Questions related to the various eligibility requirements are contained in the FAFSA. The Department relies on the information contained in the FAFSA for determining whether a student is eligible to receive Title IV funds and for determining the correct amount of Title IV funds a student is entitled to receive.

When a student begins the process of applying for Title IV funding, he or she establishes an account in the Department's system so that the FAFSA can be completed by the students and, if required, the parents and be submitted for processing. During this process, the student creates an FSA User ID, FSA password, and FSA Challenge Questions and Answers which are used to ensure the security of the information being transmitted to the Department. This information is for the student's use only and is not to be shared with institutions. Although institutions can assist students in filling out the FAFSA by answering the students' questions, the student should be entering information into the application and certifying to its accuracy. Institutional officials should not access a student's application or make changes to the information in that document.

During the course of its review, the Department found that not only was RWM improperly establishing security information for its students, it also improperly retained copies of this information in student files. Further, students interviewed by the Department stated that RWM officials asked them the questions on the FAFSA, but the school officials actually entered the information into the FAFSA on the computer. Students did not review or certify the information prior to its submission to the Department. As evidenced by the falsifications discovered for the students outlined below, it is clear that RWM operated in this manner to make it easier to illegally obtain Title IV funds.

In the files reviewed, the Department found that RWM falsified the FAFSA for students

(b)(6)

(b)(6)

by claiming the student had a child or other dependent they supported when they did not.¹ In many cases, the students informed Department staff that they told RWM officials they did not have children nor did they support any other individuals. In other cases, the student file documentation itself establishes that the students did not have dependents. It is clear that RWM falsified the FAFSA information to make it appear that these students were properly processed for Title IV aid as independent students when they actually should have been processed as dependent students and had parental income included in the analysis. By taking this action, RWM illegally obtained additional Title IV funds to which it was not entitled.

¹ The list of students is enclosed as Enclosure A.

In addition to falsifying student dependency status, RWM also falsified the high school status for students (b)(6). Although the students did not have a high school diploma or GED, RWM falsified the students' FAFSA information to make it appear the students met this critical eligibility criteria. The students informed the Department that they told RWM officials they did not have a high school diploma or GED when they enrolled. Despite this fact, RWM illegally obtained Title IV funds for these ineligible students and falsified the FAFSA to mask this fact. RWM also improperly obtained Title IV funds for student (b)(6) even though his file documentation clearly established that he did not have a high school diploma or GED.

RWM's fraudulent scheme to illegally obtain Title IV funds is in direct conflict with the institution's fiduciary responsibility to the Department. Consequently, RWM cannot continue its participation in the Title IV programs.

B. Illegal Retention of Student Credit Balances

If an institution disburses Title IV program funds by crediting a student's account and the total amount of all Title IV program funds credited exceeds the amount of tuition and fees, room and board, and other authorized charges the student is required to pay, the institution must pay the resulting credit balance directly to the student or parent. These credit balances must be paid as soon as possible but no later than 14 days after the balance occurred or 14 days after the first day of classes in a payment period if the balance occurred before that time. 34 C.F.R. § 668.164(h).

As noted above, the majority of RWM students were veterans and individuals referred through a relationship with various local offices that administered state and federal grants provided by WIOA. Veterans who attended RWM received funds to attend the institution from the Veterans Administration (VA), which in most cases covered the full tuition and fees charged by the institution. Students who participated in the WIOA programs received a grant amount based on the program they enrolled in at RWM. In general, the longer the program of study, the more WIOA funds the student was entitled to receive for their training. Most of the students also applied for Pell Grants and/or Direct Loans to cover remaining tuition costs or for living expenses such as housing and transportation.

In reviewing the student files, the Department discovered that RWM illegally retained students' Title IV credit balances. In the case of Students (b)(6)

(b)(6)

(b)(6)

(b)(6) RWM failed to pay the credit balances that were owed. RWM's callous attitude towards these students is exemplified by its actions towards Student (b)(6). Student (b)(6) was enrolled in the Com Tech 103 program which cost \$15,550. Since the student was a veteran, the VA paid the full tuition for this program. Student (b)(6) also received Workforce money totaling \$14,400, Pell Grant funds totaling \$5,775, and Direct Loan funds totaling \$3,500. Since the student's tuition and fees were fully paid by

VA funds, funds owed to the student accrued as Workforce, Pell, and Direct Loan funds were credited to the student's account. Although RWM ultimately paid a portion of the funds to the student, a total of \$16,239 remains unpaid.

Although Students (b)(6)

(b)(6)

(b)(6)

ultimately received credit balance funds they were owed, RWM retained the funds well past the time frame when they should have been disbursed to the students to pay for the additional expenses incurred while the students pursued their educational programs. In many cases, RWM refused to pay the funds until after the students graduated. In other cases, RWM told the students that they would provide them monthly payments despite the fact that the students were entitled to receive the funds within 14 days of the time the credit balances were created. Students also informed the Department that many times RWM did not provide them the monthly payments as promised, and they would have to complain or beg to receive the funds that actually belonged to them. Further, RWM counted as credit balance disbursements payments that it promised students as incentives for referring other students to the school. RWM concealed its credit balance issues by not recording WIOA payments on some student ledgers. In the files reviewed, RWM held payments as long as 338 days past the required date the funds should have been paid to the students.

RWM's actions regarding the payment of student credit balances exemplifies its blatant disregard for the needs of its students, and is in direct conflict with a fiduciary standard of conduct.

C. Falsification of Heightened Cash Monitoring 2 Submissions

An institution participating in the Title IV programs can obtain funds under three different methods of payment. 34 C.F.R. § 668.162. Under the advanced method of payment, an institution submits a request to the Department for funds immediately needed for disbursement for eligible students and receives those funds without submitting any supporting documentation. 34 C.F.R. § 668.162(b). The vast majority of institutions participating in the Title IV programs receive funds under the advanced method of payment. When the Department determines that an institution has serious programmatic violations, has violated its fiduciary responsibilities to the Department, or has financial responsibility issues, the institution is placed on heightened cash monitoring 2 (HCM2). Under this method of payment, the institution must submit documentation and the Department releases the funds only after reviewing the documentation to determine if the students for whom the institution is requesting funds are eligible. 34 C.F.R. § 668.162(d).

The Department has established procedures that an institution must follow under the HCM2 method of payment. Under these procedures, institutions must submit a roster of students for whom they want to receive Title IV funds, and must submit underlying eligibility documentation such as student applications, ledger cards, individual student aid

reports (ISIRs), and attendance documentation. The institution must also submit what is called a Form 270 that contains a certification, to be signed by the institution's owner or chief executive officer, confirming that all information contained in the request is accurate. The form also contains a warning that "any person knowingly providing false or misleading information on this certification will be subject" to a fine or imprisonment.

After discovering some serious Title IV violations during the course of its review of RWM, the Department placed the institution on HCM2 on September 19, 2017. The institution submitted two HCM2 submissions that were rejected by the Department because the documentation submitted contained errors, the documentation did not support the requested disbursements, and student credit balances had not been paid. The institution's most recent request remains pending.

During the course of its review of the file documentation submitted in the HCM2 requests, the Department discovered that RWM had submitted falsified documentation in an attempt to illegally obtain Title IV funds. Students (b)(6) were included in RWM's HCM2 requests. As noted above, RWM falsified the FAFSA applications for students (b)(6) to make it appear the students were independent based on dependents when this was not true. RWM also falsified supporting documentation to cover their illegal actions. For example, in the case of Student (b)(6) RWM submitted the student's application for enrollment as part of the HCM2 package. In the question regarding children, a "two" was added where the student had clearly placed a "zero", and the student's answer regarding his living situation was changed from "living with parents/pay rent" by adding underneath "they live with me." In the case of Student 106, RWM submitted a falsified application where they also added a "three" where the student had placed a "zero" regarding children, and submitted a completely falsified statement regarding dependent children and the student's living situation.

In addition to the falsified documentation supporting dependency status, the Department discovered falsified leave of absence forms, falsified enrollment agreements, falsified student progress reports, falsified ledgers, and falsified income statements. Falsified documents were found in the HCM2 request for Students (b)(6)

Despite your certification to the contrary, RWM submitted falsified documentation in an attempt to illegally obtain Title IV funds. This egregious misconduct is completely inconsistent with the fiduciary standard of conduct expected of an institution participating in the Title IV programs.

In addition, RWM failed to identify Title IV returns that were owed to students by listing them in the HCM2 request and subtracting the amounts from the total funds requested. This is in direct violation of the certification that was signed stating that all returns had been made. Such action also violates RWM's fiduciary responsibility to the Department and its students.

D. Failure to Maintain Accurate Required Student Documentation

Federal regulations require an institution to establish and maintain on a current basis all records necessary to establish its proper administration of the Title IV, HEA programs and its application for any Title IV, HEA funds. 34 C.F.R. § 668.24(a). In addition, an institution must maintain all records needed to properly account for its receipt and expenditure of Title IV, HEA funds including all source documents used to support Title IV, HEA disbursements. 34 C.F.R. §§ 668.24(b), (c). To satisfy this requirement, institutions are required to maintain source documentation (original daily attendance records) to validate the entry of hours into computer systems or other summary formats. In general, attendance records are required to establish academic payment periods, to determine the timing of subsequent disbursements of Title IV, HEA funds, and to establish the last date of attendance for a student who withdraws or stops attending, as well as to establish whether or not a student is meeting the institution's Satisfactory Academic Progress (SAP) standards. *See* 2016-2017 Federal Student Aid Handbook, Volumes 2 at 143-145 and 3 at 1-31. *See also* 34 C.F.R. §§ 668.4, 668.22, and 668.34.

The Title IV regulations also require an institution to keep records relating to its administration of the Federal Pell Grant Program for three years after the end of the award year for which the aid was awarded and disbursed. 34 C.F.R. § 668.24(e)(1). For the Direct Loan Program (Subsidized, Unsubsidized, and Graduate PLUS), an institution is required to keep records relating to a student or parent borrower's eligibility and participation in these programs for three years after the end of the last award year in which the student last attended the institution. 34 C.F.R. § 668.24(e)(2)(i).

Attendance records are critical for determining the amount of Title IV, HEA funds that an institution can retain when a student withdraws. In order for RWM to correctly calculate Return to Title IV calculations (R2T4), RWM must ensure that all elements in the return calculations, including last dates of attendance, are valid.

During the on-site portion of the program review, RWM informed the Department's review team that it had failed to maintain its source attendance documentation, specifically the class rosters upon which it recorded student attendance on a daily basis, for the required record retention period described above. When the reviewers requested that RWM provide class rosters for two students in the original program review sample, RWM claimed that the requested records were not available because RWM had discarded the daily sign in sheets for the time period prior to 2017. In response to the Department's concerns regarding its actions, RWM represented that the attendance and grade data reported on the class rosters is entered into student progress reports, which are then accumulated in the School Transcript, which ultimately serves as RWM's official record of attendance. RWM further indicated that the individual student attendance records as set forth in the "Actual Attendance" section of the "Student Mastersheet" that RWM's third-party servicer, R. Gonzalez Management (RGM), Inc., maintains in its system, serve as back-up documentation of each students' attendance.

In those limited circumstances where the Department was able to compare the attendance reported in the "Student Mastersheets" with the class rosters, the Department determined that the attendance reported on the mastersheets did not match the original sign-in records provided by RWM. Further, the Department's review of RWM's student progress reports in conjunction with other student file documentation yielded numerous discrepancies. Yet further, students who were interviewed reported that RWM provided the Department with falsified attendance, progress, transcript, enrollment, and placement documentation. Such false or discrepant student file documentation was found in the files of students (b)(6)

(b)(6)

(b)(6)

Since RWM improperly destroyed its source attendance documentation, the Department was not able to confirm actual commencement of attendance or the dates that students attended classes. Without such information, the Department could not determine the veracity of the institution's return calculations, nor was the Department able to review whether students met SAP standards. Based on the false and discrepant information that was uncovered, the Department has serious doubts that RWM properly calculated returns and properly applied its SAP standards.

E. Misrepresentation

Inherent in a fiduciary standard of conduct is the requirement that an institution operate in a forthright and truthful manner when dealing with students. In this regard, institutions are prohibited from making misrepresentations to students, or prospective students, regarding their educational programs, the financial charges assessed by the institution, or the employability of its graduates. 34 C.F.R. §§ 668.71-668.74. Department reviewers discovered that RWM misled students regarding key elements of their educational programs and financial charges.

The Department discovered through student interviews that although RWM promised the students that the school had great instructors who had jobs in their fields and who would teach the students the skills necessary to get a job, students did not receive training in all promised functional areas and in some cases stated they did not learn anything. Students reported that instructors provided students with the answers to questions so that students could pass tests. Further, students reported that RWM did not provide the equipment and materials necessary for students to complete their programs of study, refused to provide them with toolkits they had been promised upon graduation, and falsely promised that RWM would find them a job in their field upon graduation.

With regard to financial charges, RWM falsely assured students they would not have to pay out of pocket to attend the school. RWM also falsely promised that students would receive monthly stipends while in school. RWM staff told students they had to get a loan to pay school charges and did not tell students that part of their tuition and fees were actually being paid with WIOA grant funds. In addition, students who said they declined

Mr. Paul Bonagura
RWM Fiber Optics, Inc.
Page 10

loans, nevertheless had student loans in their name. Other students were not aware of the amount of the loans they had received.

RWM's repeated misrepresentations underscore its complete disregard for the welfare of its students, most of whom are veterans, low income youth, and displaced workers who needed training to become successful members of the workforce. RWM's misrepresentations further highlight the need for this emergency action.

This emergency action is effective on the date of this letter, which is the date of mailing, and will remain in effect until either a decision to remove the emergency action is issued in response to a request from RWM to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated by Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA program funds.

RWM may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me via the U.S. Postal Service or an express mail service at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Enforcement
830 First Street, NE (UCP-3, Room 84F2)
Washington, DC 20002-8019

If RWM requests a show cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. RWM is entitled to be represented by counsel at the hearing and otherwise during the show cause proceeding.

II.

The Department intends to terminate RWM's eligibility to participate in the Title IV, HEA programs for all the reasons stated in Part I of this notice. The Department is taking this termination action under the authority of 20 U.S.C. § 1094(c)(1)(F) and the Department's regulations at 34 C.F.R. Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs. Initiation of this termination action means that the emergency action will remain in effect until completion of the termination proceeding, unless the emergency action is otherwise lifted. 34 C.F.R. § 668.83(f)(1). The termination proceeding includes any appeal to the Secretary.

Mr. Paul Bonagura
RWM Fiber Optics, Inc.
Page 11

The eligibility of RWM to participate in the Title IV, HEA programs will terminate on January 2, 2019, unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. RWM may submit both a written request for a hearing and written material indicating why the termination should not take place. If RWM chooses to request a hearing or to submit written materials, you must write to me at the address in Part I of this letter.

If RWM requests a hearing, the case will be referred to the Office of Hearings and Appeals. That office will arrange for assignment of RWM's case to an official who will conduct an independent hearing. RWM is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If RWM does not request a hearing, but submits material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 668.94.

If you have any questions or desire any additional explanation of RWM's rights with respect to these actions, please contact Kathleen Hochhalter at the address provided in this letter or by telephone at (303) 844-4520.

Sincerely,

(b)(6)

Susan D. Crim, Director
Administrative Actions and Appeals Service Group

Enclosure

cc: Dr. William V. Larkin, Executive Director, ACCET, via email at
wvlarkin@accet.org
Dr. Michael Marion Jr, Chief, California Bureau for Private Postsecondary
Education
Department of Defense, via [osd.pentagon.ousd-p-r.mbx.vol-edu-
compliance@mail.mil](mailto:osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil)
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov

Enclosure A

Student #	Last Name	First Name
(b)(6)		

Enclosure A

Student #	Last Name	First Name
(b)(6)		

Enclosure A

Student #	Last Name	First Name
(b)(6)		

Enclosure A

Student #	Last Name	First Name
(b)(6)		



AUG 22 2019

Rev. Ronnie Williams
President/CEO
Camelot College
2618 Wooddale Boulevard, Suite A
Baton Rouge, LA 70805

Sent via UPS
Tracking #
1Z37X7Y30113855680
OPE-ID: 03023500

Dear Rev. Williams:

I.

This is to notify you that the U.S. Department of Education (Department) is hereby imposing an emergency action against Camelot College (CC). The Department is taking this action under the authority of § 487(c)(1)(G) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1094(c)(1)(G), and the Department's regulations at 34 C.F.R. § 600.41(a)(3) and § 668.83.

This emergency action is based on an August 15, 2019 notice from the Accrediting Council for Independent Colleges and Schools (ACICS) reporting the final withdrawal of CC's accredited status, effective August 15, 2019. (Enclosure) Accreditation by a nationally recognized accrediting agency, such as ACICS, is one of the statutory requirements that an institution must meet to be eligible to participate in the programs authorized under Title IV of the HEA. See 20 U.S.C. §§ 1001, 1002, and 1094. When CC lost its accreditation on August 15, 2019, it became ineligible to participate in the Title IV programs since it no longer met the definition of an institution of higher education. Any further participation in the Title IV, HEA programs by CC would constitute a violation of statutory requirements and a misuse of federal funds. Consequently, the likelihood of loss to the Department and the Title IV, HEA programs outweighs the importance of awaiting completion of the procedures for termination of eligibility in 34 C.F.R. Part 668, Subpart G.

By this emergency action, the Department withholds funds from CC and its students and withdraws the authority of CC to obligate and disburse funds under any of the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grants, Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan) programs. The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, CC is barred from initiating commitments of Title IV, HEA program funds to students by accepting Student Aid Reports under the Pell Grant Program or the TEACH Grant Program, by certifying applications for loans under the Direct Loan Program, or by issuing a commitment for aid under the campus-based programs. CC is also

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StudentAid.gov

barred from using its own funds or federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, and from crediting student accounts with respect to such assistance. Further, CC may not release to students Direct Loan program proceeds and must return any loan proceeds to the lender. Finally, unless other arrangements are agreed to between CC and the Department, the school may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action is in effect.

This emergency action is effective on the date of this letter, which is the date of mailing, and it will remain in effect until either a decision to remove the emergency action is issued in response to a request from CC to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated in Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA funds.

You may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me, via overnight mail, at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Enforcement Unit
830 First Street, NE - UCP-3, Room 84F2
Washington, DC 20002-8019

Your request should state the dates on which you are available for the show-cause meeting or teleconference. If you request a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. CC is entitled to be represented by counsel at the hearing and otherwise during the show-cause hearing.

II.

This is also to inform you that the Department intends to terminate the eligibility of CC to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F), and the Department's regulations at 34 C.F.R. § 600.41(a)(1) and Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs.

This termination action is based on the same grounds that are stated in Part I of this notice. CC lost its ACICS accreditation on August 15, 2019. As of that date, CC no longer met the definition of an institution of higher education, and, therefore, it no longer qualified to participate in the Title IV, HEA programs. 20 U.S.C. §§ 1001, 1002, and 1094.

Termination of CC's eligibility to participate in the Title IV, HEA programs will become final on September 13, 2019, unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. CC may submit both a written request for a hearing and written material indicating why the termination should not take place. If CC chooses to request a hearing or to submit written materials, you must write to me, via overnight mail, at the address in Part I of this notice.

If CC requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. CC is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If CC does not request a hearing, but submits written material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 600.41(d) and § 668.94.

If you neither request a hearing nor submit written material by September 13, 2019, this proposed termination will become the final decision of the Department and will be effective with respect to Title IV, HEA program transactions on or after August 15, 2019. See 34 C.F.R. § 600.41(c)(2)(ii). The Dallas School Participation Division will then contact you concerning the proper procedures for closing out CC's Title IV, HEA program accounts.

If you have any questions or desire any additional explanation of CC's rights with respect to the emergency action or the termination action, please contact Christina Fredrick at 303/844-3254, or by email at Christina.Fredrick@ed.gov. Ms. Fredrick's facsimile transmission number is 202/275-5864.

Sincerely,

(b)(6)

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

Enclosure

cc: Michelle Edwards, President and CEO, ACICS
Carol Marabella, Regent, Louisiana Board of Regents, via carol.marabella@la.gov
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov



DEC 17 2020

Ms. Leticia Milazzo
President
ASM Beauty World Academy
6672 & 6674 Stirling Road
Hollywood, FL 33024-1954

Sent via UPS
Tracking #: 1Z37X7Y30114288701
OPE-ID: 03012300

Dear Ms. Milazzo:

This is to notify you that the U.S. Department of Education (Department) is hereby imposing an emergency action against ASM Beauty World Academy (ASM). The Department is taking this action under the authority of § 487(c)(1)(G) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1094(c)(1)(G), and the Department's regulations at 34 C.F.R. § 600.41(a)(3) and § 668.83.

This emergency action is based on a December 8, 2020 notice from the National Accrediting Commission of Career Arts and Sciences (NACCAS) reporting the final withdrawal of ASM's accredited status, effective December 8, 2020. (Enclosure). Accreditation by a nationally recognized accrediting agency, such as NACCAS, is one of the statutory requirements that an institution must meet to be eligible to participate in the programs authorized under Title IV of the HEA. See 20 U.S.C. §§ 1001, 1002, and 1094. When ASM lost its accreditation on December 8, 2020, it became ineligible to participate in the Title IV programs since it no longer met the definition of an institution of higher education. Any further participation in the Title IV, HEA programs by ASM would constitute a violation of statutory requirements and a misuse of federal funds. Consequently, the likelihood of loss to the Department and the Title IV, HEA programs outweighs the importance of awaiting completion of the procedures for termination of eligibility in 34 C.F.R. Part 668, Subpart G.

By this emergency action, the Department withholds funds from ASM and its students and withdraws the authority of ASM to obligate and disburse funds under any of the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grants, Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan) programs. The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS Program. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, ASM is barred from initiating commitments of Title IV, HEA program funds to students by accepting Student Aid Reports under the Pell Grant Program

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Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
StudentAid.gov

Ms. Leticia Milazzo, President
ASM Beauty World Academy
Page 2

or the TEACH Grant Program, by certifying applications for loans under the Direct Loan Program, or by issuing a commitment for aid under the campus-based programs. ASM is also barred from using its own funds or federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, and from crediting student accounts with respect to such assistance. Further, ASM may not release to students Direct Loan program proceeds and must return any loan proceeds to the lender. Finally, unless other arrangements are agreed to between ASM and the Department, the school may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action is in effect.

This emergency action is effective on the date of this letter, which is the date of mailing, and it will remain in effect until either a decision to remove the emergency action is issued in response to a request from ASM to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated in Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA funds.

You may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me, via overnight mail, at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Partner Enforcement and Consumer Protection
830 First Street, NE (UCP-3, Room 84F2)
Washington, DC 20002-8019

Your request should state the dates on which you are available for the show-cause meeting or teleconference. If you request a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. ASM is entitled to be represented by counsel at the hearing and otherwise during the show-cause hearing.

II.

This is also to inform you that the Department intends to terminate the eligibility of ASM to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F), and the Department's regulations at 34 C.F.R. § 600.41(a)(1) and Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs.

This termination action is based on the same grounds that are stated in Part I of this notice. NACCAS withdrew ASM's accreditation, effective December 8, 2020. As of that date, ASM no

Ms. Leticia Milazzo, President
ASM Beauty World Academy
Page 3

longer met the definition of an institution of higher education, and, therefore, it no longer qualified to participate in the Title IV, HEA programs. 20 U.S.C. §§ 1001, 1002, and 1094.

Termination of ASM's eligibility to participate in the Title IV, HEA programs will become final on January 6, 2021, unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. ASM may submit both a written request for a hearing and written material indicating why the termination should not take place. If ASM chooses to request a hearing or to submit written materials, you must write to me, via overnight mail, at the address in Part I of this notice.

If ASM requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. ASM is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If ASM does not request a hearing, but submits written material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 600.41(d) and § 668.94.

If you neither request a hearing nor submit written material by January 6, 2021, this proposed termination will become the final decision of the Department and will be effective with respect to Title IV, HEA program transactions on or after December 8, 2020. See 34 C.F.R. § 600.41(c)(2)(ii). The Atlanta School Participation & Financial Analysis Division will then contact you concerning the proper procedures for closing out ASM's Title IV, HEA program accounts.

If you have any questions or desire any additional explanation of ASM's rights with respect to the emergency action or the termination action, please contact Lauren Pope at 202/377-4282, or by e-mail at Lauren.Pope@ed.gov.

Sincerely,

(b)(6)

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

Enclosure

cc: Dr. Anthony Mirando, Executive Director, NACCAS, via amirando@naccas.org
Mr. Samuel Ferguson, Executive Director, Florida Commission for Independent Education, via Susan.Hood@fldoe.org
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov

Enclosure



NATIONAL ACCREDITING COMMISSION OF CAREER ARTS & SCIENCES

3015 Colvin Street, Alexandria, VA 22314

PHONE (703) 600-7600 · www.naccas.org

December 8, 2020

VIA UPS

Ms. Leticia Milazzo
ASM Beauty World Academy, Inc.
6664 Stirling Road
Hollywood, FL 33024

CONFIDENTIAL
WITHDRAW-FINAL

Re.: ASM Beauty World Academy, Inc.
6672 & 6674 Stirling Road
Hollywood, FL 33024

Ref. #019087-00

Process: Withdrawal of Accreditation with Right to Appeal

Dear Ms. Milazzo:

On November 12, 2020, an Appeal Review Panel of the National Accrediting Commission of Career Arts & Sciences, Inc. (NACCAS), duly constituted in accordance with Part 9 of NACCAS' *Rules of Practice and Procedure*, considered the referenced institution's appeal of the adverse action of the NACCAS Board of Commissioners which is noted above. You received notice of this adverse decision by letter dated May 12, 2020. Pursuant to Section 9.8(b)(1) of the *Rules*, the Panel voted to **DENY** the institution's appeal and affirm the adverse decision of the Commission. The reasons for the Panel's decision are set forth on Attachment A hereto. Therefore, as of December 8, 2020, the adverse action became final, all appeal rights exhausted, and the institution shall be removed from the list of institutions accredited by NACCAS.

In accordance with Section 8.14 of NACCAS' *Rules*, you must take the following steps immediately upon receipt of this notice:

1. Inform all students enrolled in the institution and those seeking admission that accreditation by NACCAS has been withdrawn. However, you may inform current students that if they complete the program in which they are enrolled according to the usual schedule, they shall be considered graduates of an accredited institution.
2. Cease advertising accredited status in any way. You must remove from public view all certificates, decals, signs, emblems, and other evidence of accreditation. You must cease using printed materials or advertising indicating in any way that the institution is, or has been, accredited by NACCAS.

The institution may re-apply for candidate status at any time it meets the general eligibility requirements listed in Section 1.2 of the *Rules* and has paid any outstanding fees that were due NACCAS at the time of final withdrawal. However, the institution must wait one year before seeking initial accreditation.

If any comments on this final adverse decision are submitted to NACCAS by the official representative of the institution within sixty (60) days, they shall be made available to the public. Comments should be submitted in writing to the attention of Darin M. Wallace at NACCAS headquarters and must be accompanied by an executed copy of NACCAS' Comment Disclosure Acknowledgement, which is attached to with this letter.

If there are any questions regarding the appeals process, Darin M. Wallace may be contacted at (703) 600-7600, extension 159. Please use the NACCAS reference number of the institution in all communications with NACCAS.

Sincerely,

(b)(6)

(b)(6)

Tony Mirando, M.S., D.C.
Executive Director

cc: D. Wallace; S.Goldstein

ATTACHMENT A

Reasons for Denial of Appeal

Background

Pursuant to Section 5.1(b)(2) of NACCAS' *Rules of Practice and Procedure* (the "**Rules**"), each accredited institution must submit to NACCAS audited financial statements for its most-recently completed fiscal year within six months following the end of that fiscal year. By Letter of Inquiry dated January 28, 2020 [ASM-1], NACCAS advised ASM Beauty World Academy, Inc. ("ASM") that the school's audited financial statements for its fiscal year ended June 30, 2019 (the "2019FS"), which were due to NACCAS by December 31, 2020, had not been received. ASM was directed to either submit its 2019FS, or provide proof that it had already done so, within 15 days of its receipt of NACCAS' Letter of Inquiry.

ASM did neither. Instead, by letter dated February 14, 2020 [ASM-2], the school notified NACCAS that its 2019FS were "not ready yet" and requested a 45-day extension of its submission deadline. That request was denied. [ASM-3]¹

By letter dated February 21, 2020 [ASM-4], NACCAS ordered ASM to "show cause" why its accreditation should not be withdrawn for failing to comply with the requirement of Rules Section 5.1 that it submit its 2019FS. The school was ordered to respond to the Show Cause Order within 15 days of its receipt. That response was to include (among other things) ASM's 2019FS. ASM was warned that a failure to properly respond to the Show Cause Order would result in withdrawal of the school's accreditation.

ASM's response to the Show Cause Order was due not later than March 11, 2020. The school never responded to the Show Cause Order, nor did it submit its 2019FS.

ASM did, however, email NACCAS' Director of Finance Steven Goldstein on the evening of May 19, 2020 to advise him that the school was "working to get a CPA to do the Audit" and was "looking for somebody who has experience." ASM also asked Mr. Goldstein whether an extension would be possible in light of the coronavirus pandemic. [ASM-5] Mr. Goldstein responded via email the following morning, recounting the process history relating to the school's 2019FS, and noting that the school's submission deadline preceded the coronavirus outbreak. He also advised ASM that the matter would be before the Commission at its April 15, 2020 meeting. [ASM-6]²

By letter dated May 12, 2020 [ASM-7], NACCAS' Board of Commissioners notified ASM that it had withdrawn ASM's accreditation (with the right to appeal) for failing to submit its 2019FS, as required by Section 5.1(b) of NACCAS' Rules. ASM filed a timely Notice of Appeal, electing to pursue a documentary appeal. [ASM-8] On June 29, 2020, ASM submitted its Appeal Document. [ASM-9]

The School's Burden of Proof on Appeal

On appeal, the school's burden is to demonstrate that the Commission's decision was "clearly erroneous, not supported by the evidence on the record at the time the Commission took action, or was otherwise arbitrary and capricious." (Rules, Section 9.1(a)). The Panel's determination that the Commission acted in error "must be based on the conclusion that no reasonable decision-making body would have reached the decision on appeal, taking into account the evidence in the record at the time the Commission took action, and the requirements of the Commission's *Standards, Criteria, Rules* and other accreditation requirements." (Rules, Section 9.2(c)).

¹ Rules Section 1.10 states that NACCAS' Executive Director may not extend a submission deadline by more than 45 days (in the aggregate) "unless extraordinary circumstances are shown." At the time ASM's request for an extension was received, its 2019FS were already more than 45 days overdue, and its extension request provided no explanation for why an extension was warranted, other than that its audit had not yet been completed.

² That meeting was later rescheduled to April 22, 2020.

In this case, the Commission withdrew the school's accreditation because it determined that ASM had not submitted its audited fiscal year 2019 financial statements, as required by the Rules. It is this determination that the school must demonstrate was "clearly erroneous, not supported by the evidence on the record at the time the Commission took action, or was otherwise arbitrary and capricious."

The School's Arguments on Appeal

On appeal, ASM does not contest that it failed to submit its audited fiscal year 2019 financial statements to NACCAS prior to its withdrawal for failing to do so. In fact, in its Appeal Document ASM admits that as of the date of that Document (June 29, 2020) it still had not done so. [ASM-9 at p.1 ("Our audited financial statements are not yet ready, but our accountants ... expect to complete them on or before July 31, 2020.")³ In short, the school admits that the Commission did not err when it concluded that the school had failed to comply with its obligations under Rules Section 5.1.

ASM argues, however, that it was unable to meet those obligations because of the owner's spouse's health problems, unspecified "economic problems" following ASM's relocation and "pandemic issues." ASM asks that the Panel grant it more time to file its audited fiscal year 2019 financial statements. [ASM-9 at p.1 ("If you please would consider giving us more time ...")]

Any school that believes good reason exists to excuse it from compliance with NACCAS' Rules or Policies has the right (under Section 10.5 of the Rules) to petition the Commission for a waiver of those requirements. The Commission has the authority to grant such a waiver and (in its discretion) may do so. This Panel, on the other hand, has no such authority. [Rules Section 9.8 ("The Appeal Review Panel has no authority to waive or otherwise modify the NACCAS eligibility criteria, *Standards and Criteria, Rules of Practice and Procedure, Policies, or other accreditation requirements.*")]

Assuming that ASM could document that it had good and substantial reasons for failing to submit its 2019FS when due (or, for that matter, at least prior to its withdrawal), it had the right and opportunity to bring those reasons and its proof before the Commission for its consideration. We note that ASM surely knew well in advance of its December 31, 2019 submission deadline that it would not be able to submit its 2019FS on time⁴, and had until the Commission's April 2020 meeting (which it knew would be its last chance before the Commission) to file a Petition and ask the Commission to excuse its non-compliance and grant it additional time to file. But it did not do so.⁵

ASM has admitted that Commission did not err when it concluded that the school had failed to comply with its obligations under Rules Section 5.1, and now seeks relief the Commission had the authority to grant (had it been asked), but that this Panel cannot.

On the undisputed facts before us, the Panel cannot find that the Commission's decision to withdraw ASM's accreditation for failing to submit its audited 2019 financial statements was "clearly erroneous, not supported by the evidence on the record at the time the Commission took action, or was otherwise arbitrary and capricious." (Rules, Section 9.1(a)).

As ASM has not met its burden of proof on appeal, the Panel, acting pursuant to Section 9.8(b)(1) of NACCAS' *Rules of Practice and Procedure*, hereby affirms the adverse action of the Commission and **DENIES** ASM's appeal.

³ At the Panel's November 12, 2020 hearing, NACCAS staff confirmed that ASM's 2019 audited financial statements still had not been filed as of the hearing.

⁴ ASM's own statements in its February 2020 extension request (ASM-2) and its March 2020 email to Mr. Goldstein (ASM-5) indicate that it did not even begin the audit process until months after the submission deadline had passed.

⁵ To be clear, the Panel makes no assumption as to whether the Commission would have granted such a hypothetical Petition (and notes, again, that the decision to grant or deny a Petition is entirely within the discretion of the Commission).



JUL 12 2019

Ms. Cheryl A. Fell
President
Cheryl Fell's School of Business
2541 Military Road
Niagara Falls, NY 14304-1505

Sent via UPS
Tracking #: 1Z37X7Y30109825434
OPE-ID: 02176000

Dear Ms. Fell:

I.

This is to notify you that the U.S. Department of Education (Department) is hereby imposing an emergency action against Cheryl Fell's School of Business (CFSB). The Department is taking this action under the authority of § 487(c)(1)(G) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1094(c)(1)(G), and the Department's regulations at 34 C.F.R. § 600.41(a)(3) and § 668.83.

This emergency action is based on a July 11, 2019 notice from the Council on Occupational Education (COE) reporting the voluntary withdrawal while on probation of CFSB's accredited status, effective July 1, 2019. Accreditation by a nationally recognized accrediting agency, such as COE, is one of the statutory requirements that an institution must meet to be eligible to participate in the programs authorized under Title IV of the HEA. See 20 U.S.C. §§ 1001, 1002, and 1094. When CFSB relinquished its accreditation on July 1, 2019, it became ineligible to participate in the Title IV programs since it no longer met the definition of an institution of higher education. Any further participation in the Title IV, HEA programs by CFSB would constitute a violation of statutory requirements and a misuse of federal funds. Consequently, the likelihood of loss to the Department and the Title IV, HEA programs outweighs the importance of awaiting completion of the procedures for termination of eligibility in 34 C.F.R. Part 668, Subpart G.

By this emergency action, the Department withholds funds from CFSB and its students and withdraws the authority of CFSB to obligate and disburse funds under any of the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grants, Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), and the Federal Perkins Loan (Perkins Loan) program. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs. CFSB previously lost eligibility on January 17, 2019 to participate in the William D. Ford Federal Direct Loan (Direct Loan) programs due to excessive cohort default rates.

While the emergency action is in effect, CFSB is barred from initiating commitments of Title IV, HEA program funds to students by accepting Student Aid Reports under the Pell Grant Program or the TEACH Grant Program, or by issuing a commitment for aid under the campus-based

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programs. CFSB is also barred from using its own funds or federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, and from crediting student accounts with respect to such assistance. Finally, unless other arrangements are agreed to between CFSB and the Department, the school may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action is in effect.

This emergency action is effective on the date of this letter, which is the date of mailing, and it will remain in effect until either a decision to remove the emergency action is issued in response to a request from CFSB to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated in Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA funds.

You may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me, via overnight mail, at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Enforcement Unit
830 First Street, NE - UCP-3, Room 84F2
Washington, DC 20002-8019

Your request should state the dates on which you are available for the show-cause meeting or teleconference. If you request a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. CFSB is entitled to be represented by counsel at the hearing and otherwise during the show-cause hearing.

II.

This is also to inform you that the Department intends to terminate the eligibility of CFSB to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F), and the Department's regulations at 34 C.F.R. § 600.41(a)(1) and Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs.

This termination action is based on the same grounds that are stated in Part I of this notice. CFSB is no longer accredited by COE, effective July 1, 2019. As of that date, CFSB no longer met the definition of an institution of higher education, and, therefore, it no longer qualified to participate in the Title IV, HEA programs. 20 U.S.C. §§ 1001, 1002, and 1094.

Termination of CFSB's eligibility to participate in the Title IV, HEA programs will become final on August 1, 2019, unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. CFSB may submit both a written request for a hearing and written material indicating why the termination should not take place. If CFSB chooses to request a hearing or to submit written materials, you must write to me, via overnight mail, at the address in Part I of this notice.

If CFSB requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. CFSB is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If CFSB does not request a hearing, but submits written material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 600.41(d) and § 668.94.

If you neither request a hearing nor submit written material by August 1, 2019, this proposed termination will become the final decision of the Department and will be effective with respect to Title IV, HEA program transactions on or after July 1, 2019. See 34 C.F.R. § 600.41(c)(2)(ii). The New York/Boston School Participation Division will then contact you concerning the proper procedures for closing out CFSB's Title IV, HEA program accounts.

If you have any questions or desire any additional explanation of CFSB's rights with respect to the emergency action or the termination action, please contact Lauren Pope at (202) 377-4282, or by e-mail at Lauren.Pope@ed.gov.

Sincerely,

(b)(6)

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

cc: Gary Puckett, Executive Director, COE, via puckettg@council.org
Owen Donovan, Director, Bureau of Proprietary School Supervision, New York State Department of Education, via bpss@nysed.gov
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov



MAR 15 2019

Mr. Aaron Weintraub
President
Fashion Focus Hair Academy
2184 Gulf Gate Drive
Sarasota, FL 34231

Sent via UPS
Tracking # 1Z37X7Y30100476220

OPE-ID: 02148200

Dear Mr. Weintraub:

I.

This is to notify you that the U.S. Department of Education (Department) is hereby imposing an emergency action against Fashion Focus Hair Academy (FFHA). The Department is taking this action under the authority of § 487(c)(1)(G) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1094(c)(1)(G), and the Department's regulations at 34 C.F.R. § 600.41(a)(3) and § 668.83.

This emergency action is based on a March 13, 2019 notice from the National Accrediting Commission of Career Arts & Sciences (NACCAS) reporting the final withdrawal of FFHA's accredited status, effective March 13, 2019. (Enclosure). Accreditation by a nationally recognized accrediting agency, such as NACCAS, is one of the statutory requirements that an institution must meet to be eligible to participate in the programs authorized under Title IV of the HEA. See 20 U.S.C. §§ 1001, 1002, and 1094. When FFHA lost its accreditation on March 13, 2019, it became ineligible to participate in the Title IV programs since it no longer met the definition of an institution of higher education. Any further participation in the Title IV, HEA programs by FFHA would constitute a violation of statutory requirements and a misuse of federal funds. Consequently, the likelihood of loss to the Department and the Title IV, HEA programs outweighs the importance of awaiting completion of the procedures for termination of eligibility in 34 C.F.R. Part 668, Subpart G.

By this emergency action, the Department withholds funds from FFHA and its students and withdraws the authority of FFHA to obligate and disburse funds under any of the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grants, Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan) programs. The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, FFHA is barred from initiating commitments of Title IV, HEA program funds to students by accepting Student Aid Reports under the Pell Grant

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Mr. Aaron Weintraub, President
Fashion Focus Hair Academy
Page 2

Program or the TEACH Grant Program, by certifying applications for loans under the Direct Loan Program, or by issuing a commitment for aid under the campus-based programs. FFHA is also barred from using its own funds or federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, and from crediting student accounts with respect to such assistance. Further, FFHA may not release to students Direct Loan program proceeds and must return any loan proceeds to the lender. Finally, unless other arrangements are agreed to between FFHA and the Department, the school may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action is in effect.

This emergency action is effective on the date of this letter, which is the date of mailing, and it will remain in effect until either a decision to remove the emergency action is issued in response to a request from FFHA to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated in Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA funds.

You may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me, via overnight mail, at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Enforcement Unit
830 First Street, NE - UCP-3, Room 84F2
Washington, DC 20002-8019

Your request should state the dates on which you are available for the show-cause meeting or teleconference. If you request a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. FFHA is entitled to be represented by counsel at the hearing and otherwise during the show-cause hearing.

II.

This is also to inform you that the Department intends to terminate the eligibility of FFHA to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F), and the Department's regulations at 34 C.F.R. § 600.41(a)(1) and Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs.

This termination action is based on the same grounds that are stated in Part I of this notice. FFHA lost its NACCAS accreditation on March 13, 2019. As of that date, FFHA no longer met

Mr. Aaron Weintraub, President
Fashion Focus Hair Academy
Page 3

the definition of an institution of higher education, and, therefore, it no longer qualified to participate in the Title IV, HEA programs. 20 U.S.C. §§ 1001, 1002, and 1094.

Termination of FFHA's eligibility to participate in the Title IV, HEA programs will become final on April 4, 2019, unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. FFHA may submit both a written request for a hearing and written material indicating why the termination should not take place. If FFHA chooses to request a hearing or to submit written materials, you must write to me, via overnight mail, at the address in Part I of this notice.

If FFHA requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. FFHA is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If FFHA does not request a hearing, but submits written material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 600.41(d) and § 668.94.

If you neither request a hearing nor submit written material by April 4, 2019, this proposed termination will become the final decision of the Department and will be effective with respect to Title IV, HEA program transactions on or after March 13, 2019. See 34 C.F.R. § 600.41(c)(2)(ii). The Atlanta School Participation Division will then contact you concerning the proper procedures for closing out FFHA's Title IV, HEA program accounts.

If you have any questions or desire any additional explanation of FFHA's rights with respect to the emergency action or the termination action, please contact Lauren Pope at 202/377-4282, or by e-mail at Lauren.Pope@ed.gov.

Sincerely,

(b)(6)

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

Enclosure

cc: Dr. Anthony Mirando, Executive Director, NACCAS, via amirando@naccas.org
Mr. Samuel Ferguson, Executive Director, Florida Commission for Independent Education, via susan.hood@fldoe.org
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov



August 15, 2019

ID Code 00011311(MC)

VIA EMAIL AND REGULAR MAIL

home@camelotcollege.com

Rev. Ronnie Williams
President/CEO
Camelot College
2618 Wooddale Boulevard, Suite A
Baton Rouge, LA 70805

Subject: Withdrawal by Suspension

Dear Rev. Williams:

At its August 2019 meeting, the Council reviewed the institution's record dating back to its first assessment of the institution's failure to remain in compliance, as well as its response to the continued show-cause directive.

The institution voluntarily withdrew its ACICS accreditation in March 2018 and then requested reinstatement in May 2018. As part of the reinstatement approval process, the institution hosted a special Quality Assurance Monitoring (QAM) visit, which was conducted in July 2018, to assess its continued compliance with ACICS standards. The visit yielded 18 findings. At its August 2018 meeting, the Council acted to withdraw the institution's current grant of accreditation, finding that it was significantly out of compliance in ten areas. The institution appealed the action to the Review Board, which remanded the decision back to the Council for reconsideration. At its December 2018 meeting, the Council accepted the recommendation of the Review Board and placed the institution on show-cause while requesting current and updated information in response to the ten remaining areas of non-compliance. Of those ten findings, four were addressed at the April 2019 meeting, but another area of non-compliance was identified from the documentation submitted, so seven areas of non-compliance were up for subsequent review at the Council's most recent meeting.

As a result of this review, the Council found the following:

1. There is no evidence that consistently appropriate attention is given to the overall administration of the institution, particularly in the keeping of student records. Specifically, there is no evidence that LOAs are appropriately granted and that documentation for all students on LOA is accurately maintained (Section 3-1-303(a)).
2. Data provided on the revised 2018 Campus Accountability Report (CAR) still cannot be verified (Section 3-1-203).

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ACCREDITING COUNCIL FOR INDEPENDENT COLLEGES AND SCHOOLS

3. The institution did not demonstrate that it is consistently and accurately following its published Standards of Academic Progress (SAP) policy (Section 3-1-422 and Appendix D).

The Council notes that it first found the institution to be out of compliance with the Council's standards in August 2018. Because the institution's longest program is less than one year in length, the institution had a maximum of twelve months to demonstrate that it complied with the Council's standards before the Council was obligated to take adverse action. This timeframe could have been extended at the sole discretion of the Council for good cause (*See* Title II, Chapter 3, Introduction, *Accreditation Criteria*). The Council found no basis for good cause to exercise its discretion to extend the time frame.

Council Action

Therefore, the Council has acted to withdraw the institution's grant of accreditation by way of suspension. This is a final action on the remand and therefore cannot be appealed, in accordance with Section 2-3-607 of the *Accreditation Criteria*, which states: "If the Review Board panel remands the matter, the case will be deemed to be finally disposed of when the Council takes final action on remand." Should the institution choose to submit any comments, these comments will be included in the summary detailing the reasons for the Council's decision, which will be made available to the U.S. Secretary of Education, the appropriate State licensing or authorizing agency, and the public through www.acics.org.

Notice to Students and the Public

Within ten (10) business days of electronic or physical receipt of this notice, the institution must disclose to all current and prospective students the Council's decision to withdraw the accreditation of the institution. This disclosure must include public notice on its web site and direct written communication to current students. It is the institution's responsibility to maintain evidence to demonstrate that it has taken the appropriate measures to ensure that all students have been made aware of the Council's decision and how it impacts their education.

Institutional Teach-Out Plan

The institution previously submitted an executed agreement with Delta College in Baton Rouge, Louisiana. The Council expects that the institution will take the appropriate steps to assist its students through any transition to successfully complete their programs in an orderly manner. The institution is advised that Section 2-3-900 of the ACICS *Accreditation Criteria* stipulates that the Council may bar any person or entity from being an owner or senior manager of an ACICS-accredited institution if that person or entity was an owner or manager of an institution that loses its accreditation as a result of a denial or suspension action or that closes without providing a teach-out or refunds to students matriculated at the time of closure.

Rev. Ronnie Williams

August 15, 2019

Page 3 of 3

If you have any questions about this action, please contact Ms. Karly Zeigler at kzeigler@acics.org or (202) 336-6846.

Sincerely,

(b)(6)

Michelle Edwards
President and CEO

c: Ms. Cathy Sheffield, Accreditation and State Liaison, U.S. Department of Education
Ms. Carol Marabella, Louisiana Board of Regents (carol.marabella@la.gov)



DEC 18 2018

Ms. Angela G. Little
President
Cobb Beauty College
3096 Cherokee Street
Kennesaw, GA 30144

Sent via UPS
Tracking #: 1Z37X7Y30112837442

OPE-ID: 03090600

Dear Ms. Little:

I.

This is to notify you that the U.S. Department of Education (Department) is hereby imposing an emergency action against Cobb Beauty College (CBC). The Department is taking this action under the authority of § 487(c)(1)(G) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1094(c)(1)(G), and the Department's regulations at 34 C.F.R. §§ 600.41(a)(3) and 668.83.

This emergency action is based on Cobb Beauty College, Inc.'s November 26, 2018 filing for Chapter 11 bankruptcy protection in the Northern District of Georgia (Docket Number 1:18-bk-69730). (Enclosure). CBC is owned by Cobb Beauty College, Inc. Section 102(a)(4) of the HEA specifically provides that an institution that has filed for bankruptcy is not an eligible institution for purposes of participating in the student financial assistance programs if the institution, or an affiliate of the institution that has the power by contract or ownership interest to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy. See 20 U.S.C. § 1002(a)(4); see also 34 C.F.R. § 600.7(a)(2)(A).

Since Cobb Beauty College, Inc. filed for bankruptcy on November 26, 2018, CBC no longer meets the definition of an institution of higher education, and, therefore, under 487(a), CBC is no longer eligible to participate in the Title IV, HEA programs. See 20 U.S.C. § 1094(a). Therefore, any further participation in the Title IV, HEA programs by CBC would constitute a violation of statutory provisions of Title IV of the HEA and a misuse of federal funds, and the likelihood of loss outweighs the importance of awaiting completion of the procedures for termination of its Title IV eligibility in 34 C.F.R. Part 668, Subpart G.

By this emergency action, the Department withholds funds from CBC and its students and withdraws the authority of CBC to obligate and disburse funds under any of the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grants, Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS),

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Federal Perkins Loan (Perkins Loan), and the William D. Ford Federal Direct Loan (Direct Loan) programs. The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS Program. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, CBC is barred from initiating commitments of Title IV, HEA program funds to students by accepting Student Aid Reports under the Pell Grant Program, by certifying applications for loans under the Direct Loan Program, or by issuing a commitment for aid under the campus-based programs. CBC is also barred from using its own funds or federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, and from crediting student accounts with respect to such assistance. Further, CBC may not release to students Direct Loan program proceeds and must return any loan proceeds to the Department. Finally, unless other arrangements are agreed to between CBC and the Department, the school may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action is in effect.

This emergency action is effective on the date of this letter, which is the date of mailing, and it will remain in effect until either a decision to remove the emergency action is issued in response to a request from CBC to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated in Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA funds.

You may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me, via overnight mail, at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Enforcement
830 First Street, NE- UCP-3, Room 84F2
Washington, DC 20002-8019

Your request should state the dates on which you are available for the show-cause meeting or teleconference. If you request a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. CBC is entitled to be represented by counsel at the hearing and otherwise during the show-cause hearing.

II.

This is also to inform you that the Department intends to terminate the eligibility of CBC to participate in programs authorized under Title IV of the Higher Education Act of 1965, as

amended, 20 U.S.C. §§ 1070 *et seq.* The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F) and the Department's regulations at 34 C.F.R. § 600.41(a)(1), and Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs.

This termination action is based on the same grounds that are stated in Part I of this notice. That is, we are taking this termination action because CBC filed for bankruptcy on November 26, 2018. As of that date, CBC no longer met the definition of an institution of higher education, and, therefore, under § 487(a)(1) of the HEA, no longer qualified to participate in the Title IV, HEA programs. See 20 U.S.C. §1094(a).

Termination of CBC's eligibility to participate in the Title IV, HEA programs will become final on January 7, 2019, unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. CBC may submit both a written request for a hearing and written material indicating why the termination should not take place. If CBC chooses to request a hearing or to submit written materials, you must write to me, via overnight mail, at the address in Part I of this notice.

If CBC requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. CBC is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If CBC does not request a hearing, but submits written material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 600.41(d) and § 668.94.

If you neither request a hearing nor submit written material by January 7, 2019, this proposed termination will become the final decision of the Department and will be effective with respect to Title IV, HEA program transactions on or after the date of loss of eligibility. See 34 C.F.R. § 600.41(c)(2)(ii). The Atlanta School Participation Division will then contact you concerning the proper procedures for closing out CBC's Title IV, HEA program accounts.

If you have any questions or desire any additional explanation of CBC's rights with respect to the emergency action or the termination action, please contact Lauren Pope at 202/377-4282, or by e-mail at Lauren.Pope@ed.gov.

Sincerely,

(b)(6)

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

Ms. Angela G. Little
Cobb Beauty College, OPE-ID: 03090600
Page 4

cc: Dr. Gary Puckett, President, Council on Occupational Education, via puckettg@council.org
Mr. Chris Jones, Executive Director, GA State Board of Cosmetology and Barbers, via cjones@sos.ga.gov
Georgia Non-Public Postsecondary Education Commission, via harryh@npec.state.ga.us
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov



JUN 03 2021

Ms. Tamara Brown
President and Owner
Divers Academy of the Eastern Seaboard
d/b/a Divers Academy International
Lakeside Business Park
1500 Liberty Place
Erial, NJ 08081

Sent Via UPS Overnight Delivery
Tracking #: 1Z37X7Y30199215228

Sent Via email to:
Tamara@Diversacademy.edu

OPE-ID: 02154000

Dear Ms. Brown:

This is to notify you that the U.S. Department of Education (Department) is hereby imposing an emergency action against Divers Academy of the Eastern Seaboard d/b/a/ Divers Academy International (Divers). The Department is taking this action under the authority of § 487(c)(1)(G) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1094(c)(1)(G), and the Department's regulations at 34 C.F.R. § 600.41(a)(3) and § 668.83.

This emergency action is based on the guilty plea you entered on April 28, 2021 to an Information charging you with one count of wire fraud, in violation of 18 U.S.C. § 1343.¹ Specifically, as detailed in the Information filed on April 28, 2021 in the United States District Court, District of New Jersey, on or about January 18, 2017, you knowingly and with fraudulent intent caused to be transmitted by means of wire communication in interstate commerce, the electronic transfer of \$2,796.00 in funds from the Department's bank account to Divers' account, via ACH transfer, in violation of 18 U.S.C. § 1343. Additionally, the Minutes of Proceedings filed on April 28, 2021 (reflecting the entry of your guilty plea) is enclosed and incorporated into this notice by reference. (Enclosures).

Department records identify you as the sole owner, President, and Member of the Board of Divers. In addition, on May 7, 2021, Divers filed a new application to add you as the Chief Financial Officer and Chief Executive Officer. An institution does not qualify as an eligible institution if the institution, its owner, or its chief executive officer has pled guilty to a crime involving the acquisition, use, or expenditure of Title IV program funds. 34 C.F.R. § 600.7(a)(3)(i). When you pled guilty to an Information charging you with one count of wire

¹ On June 3, 2021, the Department suspended you from participating in any covered transactions under procurement and non-procurement programs and activities of any federal agency, pursuant to 2 C.F.R. Part 180, effective that date. The Department based the suspension on the Plea Agreement you signed on May 29, 2020, the Information filed on April 28, 2021, and the guilty plea you entered on April 28, 2021, in the United States District Court, District of New Jersey.

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Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
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fraud on April 28, 2021, Divers became ineligible to participate in the Title IV programs since it no longer met the definition of an institution of higher education because it met a condition of institutional ineligibility under 34 C.F.R. § 600.7(a)(3). Any further participation in the Title IV, HEA programs by Divers would constitute a violation of statutory requirements and a misuse of federal funds. Consequently, the likelihood of loss to the Department and the Title IV, HEA programs outweighs the importance of awaiting completion of the procedures for termination of eligibility in 34 C.F.R. Part 668, Subpart G.

By this emergency action, the Department withholds funds from Divers and its students and withdraws the authority of Divers to obligate and disburse funds under any of the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grants, Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan) programs. The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, Divers is barred from initiating commitments of Title IV, HEA program funds to students by accepting Student Aid Reports under the Pell Grant Program or the TEACH Grant Program, by certifying applications for loans under the Direct Loan Program, or by issuing a commitment for aid under the campus-based programs. Divers is also barred from using its own funds or federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, and from crediting student accounts with respect to such assistance. Further, Divers may not release to students Direct Loan program proceeds and must return any loan proceeds to the lender. Unless other arrangements are agreed to between Divers and the Department, the school may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action is in effect. In addition, as a result of this emergency action, Divers is required to submit a teach-out plan to its accrediting agency in compliance with 34 C.F.R. § 602.24 and the standards of the institution's accrediting agency. 34 C.F.R. § 668.14(b)(31)(i).

This emergency action is effective on the date of this letter, which is the date of mailing, and it will remain in effect until either a decision to remove the emergency action is issued in response to a request from Divers to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated in Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA funds.

You may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please submit your written request to me, via overnight mail, at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Partner Enforcement and Consumer Protection
830 First Street, NE - UCP-3, Room 84F2
Washington, DC 20002-8019

Your request should state the dates on which you are available for the show-cause meeting or teleconference. If you request a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. Divers is entitled to be represented by counsel at the hearing and otherwise during the show-cause hearing.

II.

This is also to inform you that the Department intends to terminate the eligibility of Divers to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F), and the Department's regulations at 34 C.F.R. § 600.41(a)(1) and Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs.

This termination action is based on the same grounds that are stated in Part I of this notice. Divers lost Title IV eligibility on April 28, 2021, the date that you pled guilty to one count of wire fraud. As of that date, Divers no longer met the definition of an institution of higher education, having met a condition of institutional ineligibility under 34 C.F.R. § 600.7(a)(3), and, therefore, it no longer qualified to participate in the Title IV, HEA programs. 20 U.S.C. §§ 1001, 1002, and 1094. If an institution loses its eligibility as a result of 34 C.F.R. § 600.7(a)(3)(i), the loss of eligibility is permanent. The institution's eligibility cannot be reinstated. *See* 34 C.F.R. § 600.7(i)(2).

Termination of Divers' eligibility to participate in the Title IV, HEA programs will become final on June 23, 2021, unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. Divers may submit both a written request for a hearing and written material indicating why the termination should not take place. If Divers chooses to request a hearing or to submit written materials, you must write to me, via overnight mail, at the address in Part I of this notice.

If Divers requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. Divers is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If Divers does not request a hearing, but submits written material instead, I shall consider that material and notify you whether the termination will become

Ms. Tamara Brown
Divers Academy of the Eastern Seaboard
d/b/a Divers Academy International
Page 4

effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 600.41(d) and § 668.94.

If you neither request a hearing nor submit written material by June 23, 2021, this proposed termination will become the final decision of the Department and will be effective with respect to Title IV, HEA program transactions on or after April 28, 2021. See 34 C.F.R. § 600.41(c)(2)(ii). The New York/Boston School Participation Division will then contact you concerning the proper procedures for closing out Divers' Title IV, HEA program accounts.

If you have any questions or desire any additional explanation of Divers' rights with respect to the emergency action or the termination action, please contact Lauren Pope at (202) 377-4282, or by e-mail at Lauren.Pope@ed.gov.

Sincerely,

(b)(6)

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

Enclosures

cc: Dr. Michale McComis, Accrediting Commission of Career Schools and Colleges, via mccomis@accs.org
New Jersey Department of Education, via privatecareerschools@doe.nj.gov
New Jersey Department of Labor and Workforce, via TrainingEvaluationUnit@dol.state.nj.us
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov

2017R00683/DVC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : **Criminal Number: 21- 367 (JHR)**
 :
 v. :
 : **18 U.S.C. § 1343**
TAMARA BROWN :

INFORMATION

The defendant having waived in open court prosecution by indictment, the Acting United States Attorney for the District of New Jersey charges:

WIRE FRAUD
(18 U.S.C. § 1343)

1. At all times relevant to this Information:
 - a. Defendant TAMARA BROWN was the sole owner of a private for-profit academic institution (“Educational Institution”) in Camden County, New Jersey. Since 2006, defendant TAMARA BROWN also served as the Educational Institution’s President and CEO.
 - b. The Educational Institution was a commercial diving school which offered educational programs pertaining to commercial diving and underwater welding and salvage.
 - c. The United States Department of Education (“DoED”) was an agency of the United States that provided funds to post-secondary educational institutions for educational objectives.
 - d. As a for-profit academic institution, the Educational Institution was required to be accredited through an approved accreditation body in order to be eligible to receive tuition funds from the DoED’s Higher Education Act’s programs, *see* 20 U.S.C. § 1001 *et seq.* The DoED’s

accreditation requirement was intended to ensure that all institutions of higher education met acceptable levels of quality.

e. The Educational Institution was accredited through the DoED approved accrediting entity, the Accrediting Commission of Career Schools and Colleges (“ACCSC”). The ACCSC conducted on-site accreditation reviews every five years of the educational entities that it accredited to ensure the entities under their review were maintaining appropriate standards. In addition, the educational institutions were required to submit various documents, including a certified Application for Accreditation Renewal and Self-Evaluation Report (“Self-Evaluation Report”).

f. The Educational Institution advertised its ACCSC accreditation on its website and in its brochures and other various promotional materials.

g. Without accreditation from the ACCSC, the Educational Institution’s students would not have had access to funding from the DoED’s Title IV Higher Education Act of 1965 program, such as Pell Grants and Direct Student Loans.

h. The U.S. Department of Veterans Affairs (“VA”) was an agency of the United States that provided funds to post-secondary educational institutions for educational objectives.

i. The VA also relied on the Educational Institution’s ACCSC accreditation in evaluating the eligibility of veteran students to receive federal student aid funding, including access to monies pursuant to the GI Bill. The VA had the authority to approve or disapprove an academic institution to receive funding from the VA and delegated its authority to designated State Approving Authorities (“SAA”) in each state. The Educational Institution submitted its ACCSC accreditation to the New Jersey Department of Military and Veterans Affairs

(“NJDMVA”) as the SAA for approving academic institutions to receive funding from the VA in New Jersey.

j. The Educational Institution maintained a business bank account at PNC Bank, account number XXXXXX2912 (the “PNC Account”), for which defendant TAMARA BROWN was the authorized signatory.

k. The Educational Institution utilized the PNC Account to receive monies from and on behalf of the Educational Institution’s students, including monies from the DoED and the VA.

l. The Educational Institution derived the majority of its revenue from tuition payments, a significant portion of which were funded by monies from the DoED and the VA.

The Defendant’s Scheme to Defraud

2. From in or about January 2012 and continuing through in or about July 2018, in Camden County, in the District of New Jersey, and elsewhere, the defendant,

TAMARA BROWN,

knowingly and intentionally devised and intended to devise a scheme and artifice to defraud the United States, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

The Object of the Scheme and Artifice to Defraud

3. The object of the scheme and artifice to defraud was for defendant TAMARA BROWN, through the operation of the Educational Institution, to obtain monies from the DoED and VA under fraudulent pretenses, specifically by submitting false and fraudulent information to the ACCSC during the Educational Institution’s accreditation process in order to fraudulently secure an accreditation and continued federal funding for its students’ tuition payments.

Manner and Means of the Scheme to Defraud

4. It was a part of the scheme and artifice to defraud that defendant TAMARA

BROWN reported and caused the Educational Institution to report, in its 2012 Self-Evaluation Report, graduate employment rates for years 2007 through 2011 as between 81-84%. In actuality, the Educational Institution's employment rates were closer to 50-60%, which was significantly lower than what was reported to the ACCSC and also significantly lower than the 70% rate required by the ACCSC to maintain accreditation. Defendant TAMARA BROWN falsified such employment rates and also directed then-employees of the Educational Institution to falsify such employment rates.

5. It was further part of the scheme and artifice to defraud that defendant TAMARA BROWN reported and caused the Educational Institution to report, in its 2012 Self-Evaluation Report, specific dates of nine alleged advisory board meetings from January 2008 through January 2012, and also included the number of advisory board members (between 4 and 6) alleged to have participated in each such meeting. In actuality, the Educational Institution did not have a formal advisory board during this time period and did not, in any event, hold advisory board meetings on at least six of the nine dates listed. At the direction of defendant TAMARA BROWN, a then-employee of the Educational Institution created fraudulent minutes for the advisory board meetings to submit to the ACCSC. By falsifying its meetings and minutes, the Educational Institution did not meet the ACCSC standards.

6. It was further part of the scheme and artifice to defraud that defendant TAMARA BROWN made and caused to be made the false statements in the Educational Institution's 2012 Self-Evaluation Report to mislead the ACCSC about the Educational Institution's performance because the Educational Institution did not meet the minimum standards required by the ACCSC for an accredited institution.

7. It was further part of the scheme and artifice to defraud that defendant TAMARA BROWN understood that if the Educational Institution was not an accredited institution, the Educational Institution's students would be ineligible to receive certain types of federal funding from tuition programs through the DoED and VA. An analysis of the Educational Institution's

income revealed that for any given year, more than 80% of the Educational Institution's students received financial assistance from DoED programs and that if the Educational Institution lost its accreditation it stood to lose its largest source of tuition funding for its students.

8. It was further part of the scheme and artifice to defraud that defendant TAMARA BROWN, by submitting the aforesaid false information, among other information, caused the ACCSC to renew the Educational Institution's accreditation in 2012 for the five-year period from June 2012 through June 2017 even though the Educational Institution was below the minimum standards required by the ACCSC for an accredited institution. The Educational Institution's 2012 accreditation was ultimately extended through July 2018 due to delays during the subsequent renewal process.

9. It was further part of the scheme and artifice to defraud that defendant TAMARA BROWN, by securing an accreditation for the Educational Institution through false and fraudulent misrepresentations, caused the DoED and VA to falsely believe that the Educational Institution met the minimum standards to receive federal funding.

10. It was further part of the scheme and artifice to defraud that defendant TAMARA BROWN, by submitting the aforesaid false and fraudulent information, caused the Educational Institution to receive an accreditation from the ACCSC which allowed the Educational Institution's students and the Educational Institution to receive millions of dollars in tuition aid from the DoED through various programs, including Pell Grants and student loans during the time period from approximately June 2012 through July 2018.

11. It was further part of the scheme and artifice to defraud that defendant TAMARA BROWN, by securing an accreditation through false and fraudulent misrepresentations, caused the DoED to transfer funds through the use of electronic communications and signals via automated clearing house ("ACH") transfers during the years from June 2012 through July 2018. All of these ACH transfers originated from the DoED's bank account at the Federal Reserve

Bank of New York and were sent to the Educational Institution's PNC Account and include but were not limited to the following:

DATE	AMOUNT	TRANSACTION DESCRIPTION	REFERENCE NUMBER
01/06/2017	\$2,975.00	Corporate ACH Doep Treas 310 081885865910200	00017006005218511
01/12/2017	\$7,246.00	Corporate ACH Doep Treas 310 081885865910200	00017011011045997
01/18/2017	\$2,796.00	Corporate ACH Doep Treas 310 081885865910200	00017018008178425

The Wire Fraud

12. On or about January 18, 2017, for the purpose of executing the aforesaid scheme and artifice, in Camden County, in the District of New Jersey and elsewhere, the defendant,

TAMARA BROWN,

did knowingly and with fraudulent intent cause to be transmitted by means of wire communication in interstate commerce, the electronic transfer of \$2,796.00 in funds from the U.S. Department of Education's bank account to the Educational Institution's PNC account via ACH transfer, for the purpose of executing such scheme and artifice.

In violation of Title 18, United States Code, Section 1343.

(b)(6)

 RACHAEL A. HONIG
 Acting United States Attorney

CASE NUMBER: 21-

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

TAMARA BROWN

INFORMATION

18 U.S.C. § 1343

RACHAEL A. HONIG
Acting U.S. Attorney
Newark, New Jersey

DIANA VONDRA CARRIG
Assistant U.S. Attorney
856-757-5026

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
MINUTES OF PROCEEDINGS

OFFICE: CAMDEN
JUDGE JOSEPH H. RODRIGUEZ

DATE OF PROCEEDING:
04/28/2021

COURT REPORTER: Mary Jo Monteleone

Docket # 21-CR-367 (JHR)

TITLE OF CASE:
UNITED STATES OF AMERICA
vs.

TAMARA BROWN
DEFENDANT PRESENT

APPEARANCE:

Diana V. Carrig, AUSA for Govt.
Daniel M. Rosenberg and Robert M. Perry, Esqs. for Deft.
Nailah Green, Pretrial Services

NATURE OF PROCEEDINGS: WAIVER OF INDICTMENT & PLEA

On a one count information
Ordered defendant sworn; defendant sworn.
Defendant consents to proceed with plea hearing by video, Order to be entered.
Waiver of indictment filed.
INFORMATION filed.

PLEA: GUILTY TO A ONE COUNT INFORMATION.

Terms of Plea Agreement read into the record
Ordered plea agreement approved.
Ordered plea accepted.
Plea Agreement and Rule 11 document to be entered.
Hearing on defendant's application for bail
Ordered application granted.
Bail set at \$250,000 unsecured with conditions, order to be entered.
Ordered sentencing set for **Monday, August 30, 2021 at 11:00 am.**

Time commenced: 11:00 am Time Adjourned: 11:45 am Total Time: 45 minutes

s/ David Bruey
DEPUTY CLERK

cc: Chambers

From: [Holly Eichhorst](#)
To: [Fernandez-Rosario, Martina](#); [Fosker, Erik](#); [McKissic, Stephanie](#); [Crim, Susan](#); [Williams-El, Karen](#); [Bounds, Herman](#); [Hochhalter, Kathleen](#); [aslrecordsmanager](#); [BPPE.Licensing@dca.ca.gov](#); [yvette.johnson@dca.ca.gov](#); [Kathleen.Rainey@dca.ca.gov](#)
Subject: ACCSC Notice of Commission Action
Date: Wednesday, March 4, 2020 7:33:34 AM
Attachments: [ACCSC Appeals Panel Decision Letter M000390.pdf](#)

Good Afternoon,

Pursuant to *Section X (C)(4), Rules of Process and Procedure, Standards of Accreditation*, the Commission, no later than 60 days after a final decision to deny or withdraw accreditation, will make available to the U.S. Department of Education, the appropriate state licensing agency, and other accrediting agencies the reasons for the Commission’s decision and the comments, if any, that the affected school has submitted with regard to that decision. A final decision to deny or withdraw accreditation is one reached after a school has exhausted the appeals process provided for under *Section VIII, Rules of Process and Procedure, Standards of Accreditation* or that becomes effective after a school has opted not to avail itself of its appeal rights within the prescribed time frame.

The following is a final Withdrawal of Accreditation action taken by the Commission. A copy of the Commission’s letter is attached to this email.

WITHDRAWAL OF ACCREDITATION			
School	City, State	Withdrawal of Accreditation Date	Appeal Status
Elegance International	Hollywood, CA	September 20, 2019	Appeals Panel Affirmed Commission’s Decision February 28, 2020

Thank you,
Holly

Holly Eichhorst
Manager of Commission Actions
ACCSC
2101 Wilson Blvd., Suite 302
Arlington, VA 22201
703.247.4524



Enclosure

February 28, 2020

ELECTRONIC DELIVERY
hongm@ei.edu

Michael Hong
Vice President
Elegance International
6767 Sunset Boulevard
Hollywood, California 90028

School #M000390

Dear Mr. Hong:

Elegance International brought this appeal from the September 20, 2019 decision of the Accrediting Commission of Career Schools and Colleges (“ACCSC” or “the Commission”) to withdraw the school’s accreditation and remove Elegance International from the list of ACCSC-accredited institutions. The school submitted a Letter of Intent to Appeal a Commission Decision on September 26, 2019 and its Application for Appeal of a Commission Decision, to include its Grounds for Appeal, on October 31, 2019. Pursuant to ACCSC’s *Rules of Process and Procedure*, a hearing was held before an independent Appeals Panel on November 21, 2019. For the reasons delineated below, the Appeals Panel has affirmed the Commission’s decision to withdraw the accreditation of Elegance International.

The Commission’s Decision to Withdraw Accreditation

ACCSC’s rationales for withdrawing the school’s accreditation were fully articulated in its September 20, 2019 decision letter. At the core of the decision were Commission findings that the school failed to carry its evidentiary burden of demonstrating compliance with accreditation standards in three specific areas: (1) The financial structure of the school is sound with resources sufficient for the proper operation of the school and the discharge of obligations to its students (*Section I (C)(1), Substantive Standards, Standards of Accreditation*); (2) The school only classifies graduates as employed in field who are employed for a reasonable period of time in a position that can be considered sustainable (*Section VII (B)(1)(b), Substantive Standards, Appendix VII, Standards of Accreditation*); and (3) The school maintains successful student achievement through acceptable rates of graduate employment in the career field for which the school provided education and supports these rates through the school’s verifiable records and documents of initial employment of its graduates (*Section VII (B)(1)(b), Substantive Standards, Standards of Accreditation*).

The process which concluded in the withdrawal decision commenced in 2017 when the Commission began consideration of the Application for Renewal of Accreditation submitted by Elegance International. In November of that year, ACCSC placed the school on Warning because a review of the Application, the Team Summary Report from the on-site evaluation of the school, and Elegance International’s response to that report yielded Commission concerns about compliance with accrediting standards and policies in several areas including Employment Classification, Student Achievement, Enrollment Agreements, Admissions, Externships, Recruitment, Scholarships, Advertising, and Employment Verification. Subsequently, in August 2018, Elegance International was placed on Probation due to continuing compliance issues in these areas as well as an additional concern about the school’s financial viability. Another review of Elegance International in November 2018 resulted in the continuation of the Probation Order.

The Commission met in May 2019 and conducted a fulsome review of the record of the school’s compliance at that time with several accreditation standards including, in particular, Elegance International’s response to ACCSC’s November 28, 2018 Continued Probation Order. Based on this examination, the Commission placed Elegance International on Probation with Show Cause due to the school’s continued failure to demonstrate compliance with standards governing Financial Viability, Student Achievement, Employment

Classification, Employment Verification, and Employment Documentation. Because these compliance issues had persisted for so long, the Commission, by letter dated May 29, 2019, notified Elegance International that “[f]ailure of the school to demonstrate compliance with accrediting standards or other accrediting requirements by the due date set forth herein may result in a revocation of accreditation action.”

The Commission next considered the school’s compliance at its meeting in August 2019. Based upon all the information before it, ACCSC concluded that Elegance International had again failed to demonstrate that the financial structure of the school was sound, with resources sufficient for the proper operation of the school and the discharge of obligations to its students. Financial data as of June 30, 2019 showed that the school had a negative cash balance of \$3,576, an accumulated deficit of \$1,698,142, a stockholder’s deficit of \$906,247, a net loss of \$533,536, net cash used in operating activities of \$620,380, and a net decrease in cash of \$60,836. According to the decision letter, the Commission took note that “The owner of Campus Hollywood, Inc. and Subsidiaries (“the Company”), Mr. Hisatake Shibuya, appears to have pledged long term financial support to Elegance International. The Company submitted audited consolidated financial statements for fiscal year ended September 30, 2018....” The Commission’s decision letter also observed that “[t]he attestation states that the group is willing to sell any of its properties owned in Hollywood, California with an estimated market value of \$100,000,000, if necessary. A second attestation stated that ESP Investment Holdings, Inc., owned by the Shibuya Family, will financially support Elegance International through its financial hardship as it endures changes in enrollment and the education sector. The Commission noted that ESP Investment Holdings, Inc., however, did not submit a copy of its financial statements for the Commission’s review.”

As the ACCSC decision letter makes clear, the Commission was not persuaded by the various promises of financial assistance for the school: “[w]hile the Commission appreciated the pledged support for the school, the Commission’s previous letters made clear that definitive action, not additional promises in the form of pledges or attestations, was the required cure for the school’s weakening financial position and therefore essential to demonstrating compliance with the Commission’s financial standards.” The Commission concluded: “[i]n sum despite multiple opportunities to do so, Elegance International failed to prove” that it met the Commission’s clear standards for financial viability.

The Commission’s withdrawal letter set out a second reason for its decision: Elegance International did not demonstrate that the “school’s graduates can be classified as employed in field for a reasonable period of time in a position that can be considered sustainable.” The Commission determined that this failure violated *Section VII (B)(1)(b), Substantive Standards, Appendix VII, Standards of Accreditation*. The Commission’s concern in this regard was very specific: “Elegance International failed to prove that for the Artistry Make-up program, an acceptable percentage of graduates garner employment in the field that can be considered sustainable relative to the period of time employed and income earned.”

The Commission took note of the school’s updated policy for employment classifications which states: “In the institution’s opinion, 5 compensated event/project based jobs are considered sustainable employment because when paired with the 120 externship hours component requirements, it adds to the graduate’s already existing portfolio and resume thus providing them with more on-set experience and allowing them to book additional work. While the total income of these 5 event/project based jobs appears to be minimal, when compared to traditional employment income, it should be understood that this is just a portion of what graduates will be employed in and earning annually.” After considering examples of the application of the new policy, the Commission was not persuaded that the school had established compliance with the relevant standard: “In addition and with consideration of Elegance International’s new five event/project job policy, even with an additional two event/project jobs for the aforementioned graduates [those in the Commission’s examples], the generated income would appear to remain minimal and would not support a classification of sustainable employment in the Artistry make-up field. Furthermore, regarding Elegance International’s

justification that five event/projects paired with the 120 externship hours component requirements allows the graduate to book additional work, the Commission found that Elegance International failed to demonstrate that the graduates in fact book additional event/projects on a regular and continuous basis allowing graduates to exceed the five event/project jobs.”

A second element of the school’s revised employment policy failed to assuage the Commission’s compliance concerns. According to the policy, “[e]vent or project workdays can vary from one to ten plus hour workdays because of the nature of the industry. They can range from private client makeups that are completed in less than two hours to 15-hour music video workdays. In order for graduates to be considered placed in this category they must have completed 5 paid event/project based jobs within 6 months of their graduation date.” The Commission rejected the contention that this policy complied with the relevant accreditation standard:

Assuming a graduate gains five-paid event/project based jobs every six months, per the school’s policy, the Commission failed to see how ten event/project jobs in a one-year period can be considered employed in the field for a reasonable period of time. Per that policy, ten event/project jobs in a twelve-month period could equate to as little as 10 hours and earn the graduate less than \$1,000. (September 20, 2019 letter, p. 5).

The Commission concluded that graduate adherence to the policy would not “constitute regular and on-going employment and fails to support the school’s position that the graduate garnered employment that generates sustainable income earned in the field of Artistry make-up. This is of particular note given the \$18,500 tuition for the program.”

The Commission’s decision letter recited a third reason for withdrawing the school’s accreditation – “Elegance International failed to demonstrate successful student achievement through acceptable rates of graduate employment in the career field for which the school provided education and support these rates through the school’s verifiable records and documentation of initial employment of its graduates” as required by *Section VII (B)(1)(b), Substantive Standards, Standards of Accreditation*.

The withdrawal letter includes a table reciting graduation and employment rates for the last two years which shows that Elegance International did not meet required student achievement rate benchmarks in the January 2018 and March 2019 Report Date. The Commission observed that the school contended that graduates of the 12-month and 15-month Artistry of Makeup programs are below benchmark “because the graduates reported as ‘Graduate-Unemployed’ on the Graduation and Employment charts have not yet been verified.” Elegance International had not yet categorized them as employed in the field because it had not yet received the verified employment and employment verification forms. There were 90 graduates reported for the 12-month Artistry of make-up program, according to the school, and “once the school completed the verification items, the school would classify the 90 graduates in the ‘Graduates-Employed in field’ category thus raising the employment rate.” These assertions did not mollify the Commission’s concerns: “Elegance International failed to support the school’s in-field employment classifications by providing complete employment verification forms” despite “multiple opportunities to provide verified employment documentation to support the school’s expectation to reclassify the 90 graduates as employed in-field.” The withdrawal letter concluded: “since Elegance International failed to demonstrate sustainable in-field employment for the Artistry of Make-up program, even with the new five event/project job policy, the graduates could not be classified appropriately as employed in the field and therefore the employment rate would not meet benchmark.”

Elegance International’s Grounds for Appeal

The fundamental argument advanced in Elegance International’s Grounds for Appeal is that “the Commission has acted in contravention of its own standards and evidence in the record, leading to an impermissibly arbitrary and capricious result – the withdrawal of EI’s accreditation” (Grounds for Appeal, p. 7). In addition, the Grounds for Appeal include “new financial information” which “the Appeals Panel has authority to consider...in assessing EI’s compliance with Standard I(C)(1) (financial soundness)” (Grounds for Appeal, p. 7). The appeal document challenges the Commission’s determinations in the three areas which formed the basis for its decision to withdraw the school’s accreditation: financial soundness, graduate employment classification, and student achievement based on placement rates.

Financial Soundness

The gravamen of Elegance International’s objection to ACCSC’s finding that the school was not in compliance with *Section I (C)(1), Substantive Standards, Standards of Accreditation* is that the finding is arbitrary and capricious, in violation of Commission requirements, and unsupported by the factual record “because it is based, at least in part, on EI’s failure to provide information that the Commission never specifically requested [and as] a result, the Commission’s determination violates the Commission’s own procedural requirements to permit EI an opportunity to respond fully to financial soundness concerns” (Grounds for Appeal, p. 7). More particularly, Elegance International contended that “the Commission never made a specific request to EI for the financial statements of affiliate ESP Investment Holdings, Inc., yet states in the Withdrawal Action, (page 3), that EI’s failure to provide this information renders its response to the Commission incomplete” (Grounds for Appeal, p. 8). The school further argued that the Commission “despite several other detailed financial information requests in its August 2018 through August 2019 notices to EI, never specifically requested the ESP Investment Holdings, Inc. financial statement” (Grounds for Appeal, p.8; See also Appeal Hearing Transcript, pgs. 15-23).

The school also asserted that “the Commission did not clearly notify EI that to demonstrate compliance with the Standards, EI’s parent or affiliates needed to take ‘definitive action’ to support EI financially” (Grounds for Appeal, p.8). To this end, Elegance International cited the Commission’s language in its withdrawal letter—*viz.* “definitive action, not additional promises in the form of pledges or attestations, was the required cure for the school’s weakening financial position and therefore essential to demonstrating compliance with the Commission’s financial standards” (Grounds for Appeal, p.8). Elegance International argued that it provided the Commission with the information the Commission had specifically requested and in fact had “submitted more than the Commission requested: an attestation from Campus Hollywood, Inc. and an attestation from ESP Investment Holdings, Inc. the affiliate of the sole owner of Campus Hollywood, Inc.” (Grounds for Appeal, p.9). The appeal document posits that “[a]t no time did the Commission make clear to EI that its demonstration of financial soundness under *Section I (C)(1)* required ‘definitive action’ beyond an attestation, nor did the Commission define what action by EI would be deemed sufficient ‘definitive action’ to demonstrate financial soundness under the Standards” (Grounds for Appeal, p. 9). This, Elegance International posited, is arbitrary and capricious because it “violates Standard V(C)(4) which requires clear notice and an opportunity to respond regarding financial soundness concerns” (Grounds for Appeal, p. 9).

The Grounds for Appeal advance the proposition that ACCSC’s “Standards do not provide a basis for the Commission to withdraw accreditation on financial losses alone” (Grounds for Appeal, p. 9). Instead, Elegance International asserted, the Commission “must follow the language of its own financial soundness standard and establish evidence that the financial state of the school is such that operations and student education is or will be impacted” (Grounds for Appeal, p. 9). Furthermore, the school claims that there is “no evidence in the record or cited by the Commission that EI is failing to properly operate the school, other

than the student achievement standards the Commission raises as grounds two and three of the Withdrawal Action...which cannot sustain a Withdrawal Action” (Grounds for Appeal, p. 9).

Rounding out its arguments concerning financial soundness, Elegance International submitted additional financial information pursuant to *Section VIII (C)(2)(c), Rules of Process and Procedure, Standards of Accreditation* which permits the Appeals Panel to consider new financial information when the failure to meet the Commission’s financial soundness standard remains the only basis for withdrawal of accreditation. Included with the Grounds for Appeal was a copy of the audited financial statement for ESP Investment Holdings, Inc. (Exhibit 4) as well as a signed Credit Agreement between Campus Hollywood, Inc. and Elegance International that makes available to the school up to \$730,000 through October 2020 which can be extended by agreement of the parties (Exhibit 5). According to the Grounds for Appeal, “[t]his credit line is made available by Campus Hollywood, Inc. to ensure EI has liquidity to draw upon as needed as it moves toward profitability” (Grounds for Appeal, p. 11).

Graduate Employment Classification/Sustainable Employment

The school’s Grounds for Appeal challenge the Commission’s conclusion that Elegance International failed to demonstrate that “an acceptable percentage of graduates garner employment in the field that can be considered sustainable relative to the period of time employed and income earned” (Grounds for Appeal, p. 11). Elegance International argued that this determination is arbitrary and capricious because the Commission “impermissibly imputed a minimum income requirement into its sustainability of employment standard. ACCSC Standards do not require demonstration of a minimum income level of graduates in order to establish the reasonableness of a school’s employment classification policy” (Grounds for Appeal, p. 11).

The school described the Commission’s decision to withdraw accreditation as being “based on the conclusion that EI failed to adhere to the Commission’s Guidelines for graduates of the Artistry of Makeup program because the amount of income earned by graduates does not evidence ‘sustainable’ employment (Grounds for Appeal, p. 11). “Nowhere in the Standards,” the school contended, “is there a requirement that a graduate even report income, or related to the amount of income that must be demonstrated for the school to consider the graduate classified as employed, so long as the income is derived from the training received” (Grounds for Appeal, p. 11). In this case, “the Commission varied from its published standard by ‘reading in’ a minimum threshold requirement, and thus the Withdrawal Action based on that improper standard is arbitrary and capricious” (Grounds for Appeal, p. 13). According to the school, “[n]owhere in the Standard on which the Commission bases its withdrawal is EI required to demonstrate salary level or income, but rather only the existence of paid, training-related income” (Grounds for Appeal, p. 13).

The Grounds for Appeal include other objections to the Commission’s findings with respect to sustainable employment:

- Imputing an income requirement into the sustainability standard would directly conflict with the regulations of the California BPPE to which Elegance International is subject. The BPPE rules, according to Elegance International, do not require a self-employed/freelance graduate to meet minimum income requirements (Grounds for Appeal, P. 14).
- Elegance International is required to provide each student who enrolls in the Artistry of Makeup program “with clear disclosures as to the fact that graduates of the program often end up self-employed freelancers, a status that comes with uncertainty as to timing and income from paid work” (Grounds for Appeal, pgs. 14-15).

Student Achievement Based on Placement Rates

With respect to the Commission’s determination that Elegance International failed to demonstrate successful student achievement through acceptable rates of graduate employment or to support such rates through verifiable documentation, the school contended that the finding is arbitrary and capricious because (i) the school’s failure to provide verifiable records is a consequence of an absence of clarity in the relevant Commission standards and (ii) ACCSC ignored evidence in the record that Elegance International met or exceeded Commission benchmarks by the time the 2019 Annual Report was submitted (Grounds for Appeal, p. 16; See also Appeal Hearing Transcript, pgs. 24-27).

The Grounds for Appeal assert that Elegance International’s “failure to provide verifiable records and documents for self-employed graduates, leading to lower than acceptable graduation rates in some instances is a direct result of the lack of clarity in the Commission’s standards” (Grounds for Appeal, p. 16). The school states that the record in this case “demonstrates that EI and the Commission tangled for years regarding EI’s policies and procedures for classifying graduates of the Artistry of Makeup programs as employed, particularly the majority who are self-employed” (Grounds for Appeal, p. 16). In its Grounds for Appeal, the school related in detail the give and take between Elegance International and the Commission over the “three-gig” policy, the evolution of the “five-gig” policy, and the definition of “sustainable” (Grounds for Appeal, pgs. 17-18). The appeal document concludes that “[t]he tortured history of EI’s attempts to satisfy an unclear and shifting standard of sustainable employment illustrate the arbitrary and capricious nature of the Commission’s adverse action based on failure to meet employment benchmarks” (Grounds for Appeal, p. 18). Furthermore, the Grounds for Appeal argue that “EI was working to refine its placement definition and documentation in the absence of a clear standard for EI to follow [and that] [w]ithout clear standards, EI was left guessing as to needed changes to its verification process, with each change creating gaps and backlogs in obtaining documentation to meet the Commission’s vague standard” (Grounds for Appeal, p. 19).

One final argument broached in the Grounds for Appeal is that the Commission erred in determining that Elegance International did not meet benchmark employment rates because it relied on interim report date data. Specifically, Elegance International contended the following:

By basing its Withdrawal Action on the March 2019 Report Date cohort for which EI was not given sufficient time to verify placement rates, combined with the changes to the EI placement verification procedures necessitated by the Commission’s lack of clear guidance on the placement standard leading to delays in obtaining verification for the March 2019 Report Date cohort, the Commission’s determination that EI was unable to meet the 2019 Annual Report student achievement standards is reversible not supported by evidence in the record, leading to an arbitrary and capricious result” (Grounds for Appeal, p. 20).

Appeals Panel Decision

Section VIII (B) of the Commission’s Rules of Process and Procedure, Standards of Accreditation, provides that on appeal, the school has the burden of proving that the Commission’s decision to withdraw accreditation “was arbitrary, capricious, or otherwise in substantial disregard of the criteria or procedures of the Commission, or not supported by substantial evidence in the record on which the Commission took action.” ACCSC’s Rules of Process and Procedure provide that the Appeals Panel has the authority to affirm, reverse, remand, or amend the Commission’s decision to withdraw Elegance International’s accreditation. After carefully reviewing the record in this matter including the presentations made at the appeal hearing, the Appeals Panel concluded that Elegance International has not carried its burden of proof

on appeal and accordingly the Panel affirms the decision of the Commission to withdraw the accreditation of Elegance International. The Appeals Panel’s conclusion is set forth below.

As a preliminary matter, the Appeals Panel believed that it is important to underscore two important aspects of ACCSC accreditation which bear directly on the arguments advanced by Elegance International but which the school did not adequately take into account in its appeal.

First, the obligation to demonstrate continuous compliance with all accreditation standards and policies lies exclusively with the school. *ACCSC Standards of Accreditation, Introduction, Preamble* provides:

The burden rests with the school to establish that it is meeting the standards. A school must supply the Commission with complete, truthful, and accurate information and documentation showing the school’s compliance with all accrediting standards if the school is to be granted and maintain accreditation. A high level of reliance is placed upon information, data, and statements provided to the Commission by a school (emphasis added).

It is the school’s responsibility to provide the information and documentation necessary to prove that it meets all accreditation requirements:

*While the Commission employs its own fact-finding methods to determine a school’s compliance with accrediting standards, such as on-site evaluation teams’ observations, interim monitoring, and review of information provided by third parties, the burden rests with the school to establish it is meeting all requirements of the Standards of Accreditation. Moreover, the Commission’s deliberations and decisions are made on the basis of the written record of an accreditation review. Schools do not have the right to appear before the Commission. Accordingly, a school must supply the Commission with complete documentation of the school’s compliance with all accrediting standards and requirements if the school is to be granted and maintain accreditation (emphasis added) (*Sections I.F and G.1, Rules of Process and Procedure, Standards of Accreditation*).*

The responsibility to establish compliance is continuous – “[p]articipation in the process of accreditation is voluntary on the part of the school [and] [b]y applying for and receiving accreditation, a school accepts the obligation to demonstrate continuous compliance with the *Standards of Accreditation*” (*Section I (B)(4), Rules of Process and Procedure, Standards of Accreditation*). The inability of a school to demonstrate continuous compliance with accreditation requirements can lead to adverse actions including withdrawal of the school’s accreditation. *Section I (G)(3), Rules of Process and Procedures, Standards of Accreditation*) states: “[f]ailure by a school to maintain continued compliance with all ACCSC standards and requirements will lead to the Commission taking appropriate action as described in *Section VII, Rules of Process and Procedure, Standards of Accreditation*.”

Second, the Commission’s approach to accreditation as manifested through its *Standards, Rules of Process and Procedure*, policies and guidance documents is not a cookbook or formulaic process where the accreditor maintains highly detailed, specific, and numeric criteria which a school must “check the box” and meet. The Commission’s accreditation process “sets forth the base of essentials (i.e., standards of best practice) against which a school studies and evaluates itself. Each school determines its own educational objectives, keeping in mind, however, that such objectives must be appropriate for a postsecondary-educational institution and serve to support the success of students” (*Introduction, ACCSC Standards of Accreditation*). “The standards and accreditation process emphasize educational quality by focusing on outcomes. What actually happens as a consequence of the teaching-learning processes in a school, and what is the evidence of these results?” (*Introduction, ACCSC Standards of Accreditation*). “Necessarily, the Commission concerns itself with inputs (the kinds of students in the school and the recruiting, admission, and testing procedures that produce them); resources (instructors, equipment, library, etc.), and processes

(how the school actually operates). All of these conditions are evaluated within the context of the school’s stated mission and its demonstrated achievements.” Given this overarching approach to accreditation, it is rare that the Commission has specific numeric targets that a school must meet, graduation and employment rates being two such areas.

With these principals in mind, the Appeals Panel examined the grounds for appeal submitted by Elegance International.

Financial Soundness

The basis for Elegance International’s objection to ACCSC’s finding that the school was not in compliance with *Section I (C)(1), Substantive Standards, Standards of Accreditation* is that it was predicated on the school’s failure to provide information that the Commission never specifically requested—*i.e.* ACCSC never made a request for the financial statements of affiliate ESP Investment Holdings, Inc. despite the fact that it had requested other detailed financial information from Elegance International from August 2018 through August 2019. Elegance International also argued that the Commission did not clearly advise the school of what “definitive action” had to be taken by the school, its parent, and affiliates had to take in order to demonstrate compliance with the Commission’s financial soundness standard. The Appeals Panel is not persuaded by either of these arguments.

As the discussion above makes abundantly clear, it is the absolute responsibility of the school to provide the Commission with all the documentation necessary to establish compliance with accreditation standards including those relating to the financial soundness of the school. The fact that ACCSC may have requested certain documents previously does not vitiate this obligation. If Elegance International raised the prospect of funding from ESP Investment Holdings, Inc. as a way to address the Commission’s concerns about the financial soundness of the school, it is Elegance International’s responsibility to identify and provide all of the materials to the Commission to prove that the funding source is viable and fully available. It is not the Commission’s responsibility to specifically identify and request all the documents which the school should submit to meet its burden. It was the school’s duty to furnish the evidence necessary to prove its position and it cannot divest itself of that obligation on the ground that the Commission did not specifically ask for it.

Elegance International’s argument that ACCSC did not tell the school what “definitive action” to take suffers from the same defect. The record in this matter makes clear that the Commission was growing increasingly frustrated by the various unrealized promises of financial support for the school: “While the Commission appreciated the pledged support for the school, the Commission’s previous letters made clear that definitive action, not additional promises in the form of pledges or attestations, was the required cure for the school’s weakening financial position and therefore essential to demonstrating compliance with the Commission’s financial standards” (September 20, 2019 Withdrawal Letter, p. 3). The Commission’s prior communications provided clear notice to Elegance International that the time for unrealized promises and pledges of financial assistance was over and that the school had to prove that such assistance was in place and in effect. It was never the Commission’s responsibility to tell Elegance International what to do to prove its compliance with the financial standards; that was solely the school’s responsibility. The Appeals Panel found that Elegance International cannot offload that duty by asserting that the Commission did not tell it what action to take.

Citing *Section VIII(C)(2)(c), Rules of Process and Procedure, Standards of Accreditation* which permits the Appeals Panel to consider new financial information under certain circumstance, Elegance International included new financial information with its Grounds for Appeal including a copy of an audited financial statement for ESP Investment Holdings, Inc. and a Credit Agreement between Campus Hollywood, Inc.

and Elegance International that makes available to the school up to \$730,000. The rules governing the information which an Appeals Panel may consider are quite clear.

Section VIII(B)(4), Rules of Process and Procedure, Standards of Accreditation stipulate that with the exception of certain financial information, “[t]he Appeals Panel will only consider that information that was before the Commission at the time that the adverse action was taken.” *Section VIII (C)(2)(c), Rules of Process and Procedure, Standards of Accreditation* provides that “In instances where the only remaining deficiency cited by the Commission in an adverse accreditation decision is the institution’s failure to meet the Commission’s standards pertaining to financial soundness, an institution may present new financial information under the following conditions:

- i. The financial information is significant as determined by the Commission;
- ii. The financial information was unavailable prior to the adverse accreditation decision;
- iii. The financial information bears materially on the financial deficiencies identified by the Commission; and
- iv. A school may present new financial information only once and any final determination reached with respect to the new financial information does not provide a new basis for appeal.”

As set out below, the Appeals Panel found that financial concerns are not the only remaining deficiency and therefore the Appeals Panel is precluded from considering the new financial information tendered by the school.

Graduate Employment Classification/Sustainable Employment

The school’s Grounds for Appeal object to the Commission’s conclusion that Elegance International failed to demonstrate that “an acceptable percentage of the school’s graduates can be classified as employed in the field for a reasonable period of time in a position that can be considered sustainable” (September 20, 2019 Withdrawal Letter, p. 5). Elegance International argued that this determination is arbitrary and capricious because the Commission “impermissibly imputed a minimum income requirement into its sustainability of employment standard. ACCSC Standards do not require demonstration of a minimum income level of graduates in order to establish the reasonableness of a school’s employment classification policy” (Grounds for Appeal, p. 11). The school advances several variations of its argument with respect to graduate employment all of which are predicated on the notion that the Commission “imputed” or “read in” an income requirement into the sustainability standard.

For several reasons, the Appeals Panel concluded that the school’s arguments do not establish that the Commission’s findings with respect to graduate employment classification are arbitrary and capricious. First, by focusing almost myopically on its “income” arguments, Elegance International ignored other essential elements of the Commission’s determination that the school was not in compliance with the sustainability requirement. *Appendix VII—Guidelines for Employment Classification, Standards of Accreditation*, sets the standard which a school must meet: “The school must be able to justify the classification of each graduate as employed in a training related field and maintain verifiable employment records....” In so doing, the school is directed to use specific guidelines including, inter alia: “the employment classification is appropriate and reasonable based on the educational objectives of the program”; the “employment is for a reasonable period of time, is based on program objectives, and can be considered sustainable”; and “the employment is directly related to the program from which the individual graduated, aligns with a majority of the education and training objectives of the program, and is a paid position.” The plain language of the Withdrawal Letter demonstrates that the Commission took into account all of these factors, not just the income from the gigs worked by the graduates: “Elegance International

failed to prove that for the Artistry Make-up program, an acceptable percentage of graduates garner employment in the field that can be considered sustainable relative to the period of time employed and income earned” (September 20, 2019 Withdrawal Letter, p. 4).

Second, the Appeals Panel found no merit to the claim that the Commission “read into” the accreditation standards an income requirement which does not exist and of which Elegance International had no notice. In fact, income is an inherent factor in several of the accreditation requirements including whether the employment is sustainable, whether it is a paid position, whether it aligns with the educational objectives of the program, and whether the employment can be considered to be in place for a reasonable period of time. ACCSC did not “impute” an income element to the standards. It is instead, an important and relevant element in determining compliance.

Third, as described in detail above, the school has the evidentiary burden of proving compliance with accreditation requirements, including those related to student achievement and graduate employment. The Commission had concluded that Elegance International had not satisfied that obligation in several respects clearly laid out in the Withdrawal Letter on pages 4 and 5. Elegance International contended that there is no requirement that graduates report income or that the amount of income be established for the graduate to be considered employed, that imputing an income requirement would conflict with California BPPE, and that Elegance International was only required to demonstrate the existence of paid, training-related income. The school’s argument stands its evidentiary burden on its head. Elegance International is obligated to make the demonstration that it satisfies the Commission’s requirements and certainly the income earned by graduates is inherently fundamental to several ACCSC requirements governing student achievement and graduate employment. Elegance International cannot avoid this duty by trying to recharacterize the role of income mentioned in the withdrawal decision. The Appeals Panel found that the Commission’s reference to income is justifiable because it did not establish a metric but simply served as a reference point in making a determination regarding reasonability and sustainability.

Graduate Employment in Career Field

In its Withdrawal Letter, the Commission determined that Elegance International had not demonstrated successful student achievement through acceptable rates of graduate employment in the career field for which training was provided nor had it supported the rates through verifiable documentation of initial employment of its graduates. The letter also cited employment rates for January 2018 and March 2019 which fell well below the benchmark rates. In its Grounds for Appeal, Elegance International contended that this finding is arbitrary and capricious because (i) the school’s failure to provide verifiable records is a consequence of an absence of clarity in the relevant Commission standards and (ii) ACCSC ignored evidence in the record that Elegance International met or exceeded Commission benchmarks by the time the 2019 Annual Report was submitted.

The Appeals Panel found the school’s arguments unpersuasive. Elegance International’s contention is centered around its view that Elegance International and the Commission “tangled for years” regarding the school’s policies and procedures for classifying graduates of the Artistry of Makeup program as employed. The Appeals Panel did not see the record that way. Instead, in the view of the panel, the evidence shows a persistent failure by Elegance International to carry its burden of satisfying the Commission that it meets the relevant standard. The Commission was consistently clear about its concerns with Elegance International’s policies and compliance but the school was unable to put together a coherent package of arguments and evidence that assuaged ACCSC’s concerns. Elegance International also asserted that the school could not “satisfy an unclear and shifting standard” yet the school did not identify the respects in which the standard was “unclear” and “shifting.” The fact that Elegance International could not make the

case for compliance does not mean that the standard was unclear or changing; the standard remained the same – it was the school’s various efforts to demonstrate compliance which appeared to be shifting.

Elegance International also contended that the Commission erred in determining that the school did not meet benchmark employment rates because the Commission relied on interim Report Date data. Specifically, Elegance International asserted that by basing its Withdrawal Action on the March 2019 Report Date cohort, it was not given adequate time to verify and report on the graduate placement rates. Much of the school’s argument rests on its contention that the 90 graduates on the 12 month Graduate & Employment Chart, “once complete with their additional verification items, will be moved to ‘Graduates-Employed in Field’ increasing the percentage above the Commission’s benchmark.” The Commission’s issue with this argument appears to have been that Elegance International had multiple opportunities to provide verified employment documentation to support the school’s expectation to reclassify the 90 students as employed in field but failed to do so (September 20, 2019 Withdrawal Letter, p. 6). In addition, the Commission concluded that “since Elegance International failed to demonstrate sustainable in-field employment for the Artistry of Make-up program, even with the new five event/project job policy, the graduates could not be classified appropriately as employed in the field and therefore the employment rate would not meet benchmark” (September 20, 2019 Withdrawal Letter, p. 6). Considering the record as a whole, the Appeals Panel agreed with the Commission’s finding. It appeared to the Appeals Panel that the real problem was the school’s failure to provide the evidence necessary to persuade the Commission that the 90 students could, within the boundaries of ACCSC requirements, be moved to the Employed in Field category and the school’s failure to furnish documentary proof that the school’s representations with respect to those graduates would in fact occur.

Conclusion

For the foregoing reasons, it is the unanimous opinion of the Appeals Panel that the decision of the Commission to withdraw the accreditation of Elegance International be affirmed.

If you have any questions pertaining to this matter, please feel free to contact me directly at 703.247.4520 or mccomis@accsc.org.

Sincerely,

(b)(6)

Michale S. McComis, Ed.D.
Executive Director

February 28, 2020

ELECTRONIC DELIVERY
hongm@ei.edu

Michael Hong
Vice President
Elegance International
6767 Sunset Boulevard
Hollywood, California 90028

School #M000390

Dear Mr. Hong:

Elegance International brought this appeal from the September 20, 2019 decision of the Accrediting Commission of Career Schools and Colleges (“ACCSC” or “the Commission”) to withdraw the school’s accreditation and remove Elegance International from the list of ACCSC-accredited institutions. The school submitted a Letter of Intent to Appeal a Commission Decision on September 26, 2019 and its Application for Appeal of a Commission Decision, to include its Grounds for Appeal, on October 31, 2019. Pursuant to ACCSC’s *Rules of Process and Procedure*, a hearing was held before an independent Appeals Panel on November 21, 2019. For the reasons delineated below, the Appeals Panel has affirmed the Commission’s decision to withdraw the accreditation of Elegance International.

The Commission’s Decision to Withdraw Accreditation

ACCSC’s rationales for withdrawing the school’s accreditation were fully articulated in its September 20, 2019 decision letter. At the core of the decision were Commission findings that the school failed to carry its evidentiary burden of demonstrating compliance with accreditation standards in three specific areas: (1) The financial structure of the school is sound with resources sufficient for the proper operation of the school and the discharge of obligations to its students (*Section I (C)(1), Substantive Standards, Standards of Accreditation*); (2) The school only classifies graduates as employed in field who are employed for a reasonable period of time in a position that can be considered sustainable (*Section VII (B)(1)(b), Substantive Standards, Appendix VII, Standards of Accreditation*); and (3) The school maintains successful student achievement through acceptable rates of graduate employment in the career field for which the school provided education and supports these rates through the school’s verifiable records and documents of initial employment of its graduates (*Section VII (B)(1)(b), Substantive Standards, Standards of Accreditation*).

The process which concluded in the withdrawal decision commenced in 2017 when the Commission began consideration of the Application for Renewal of Accreditation submitted by Elegance International. In November of that year, ACCSC placed the school on Warning because a review of the Application, the Team Summary Report from the on-site evaluation of the school, and Elegance International’s response to that report yielded Commission concerns about compliance with accrediting standards and policies in several areas including Employment Classification, Student Achievement, Enrollment Agreements, Admissions, Externships, Recruitment, Scholarships, Advertising, and Employment Verification. Subsequently, in August 2018, Elegance International was placed on Probation due to continuing compliance issues in these areas as well as an additional concern about the school’s financial viability. Another review of Elegance International in November 2018 resulted in the continuation of the Probation Order.

The Commission met in May 2019 and conducted a fulsome review of the record of the school’s compliance at that time with several accreditation standards including, in particular, Elegance International’s response to ACCSC’s November 28, 2018 Continued Probation Order. Based on this examination, the Commission placed Elegance International on Probation with Show Cause due to the school’s continued failure to demonstrate compliance with standards governing Financial Viability, Student Achievement, Employment

Classification, Employment Verification, and Employment Documentation. Because these compliance issues had persisted for so long, the Commission, by letter dated May 29, 2019, notified Elegance International that “[f]ailure of the school to demonstrate compliance with accrediting standards or other accrediting requirements by the due date set forth herein may result in a revocation of accreditation action.”

The Commission next considered the school’s compliance at its meeting in August 2019. Based upon all the information before it, ACCSC concluded that Elegance International had again failed to demonstrate that the financial structure of the school was sound, with resources sufficient for the proper operation of the school and the discharge of obligations to its students. Financial data as of June 30, 2019 showed that the school had a negative cash balance of \$3,576, an accumulated deficit of \$1,698,142, a stockholder’s deficit of \$906,247, a net loss of \$533,536, net cash used in operating activities of \$620,380, and a net decrease in cash of \$60,836. According to the decision letter, the Commission took note that “The owner of Campus Hollywood, Inc. and Subsidiaries (“the Company”), Mr. Hisatake Shibuya, appears to have pledged long term financial support to Elegance International. The Company submitted audited consolidated financial statements for fiscal year ended September 30, 2018....” The Commission’s decision letter also observed that “[t]he attestation states that the group is willing to sell any of its properties owned in Hollywood, California with an estimated market value of \$100,000,000, if necessary. A second attestation stated that ESP Investment Holdings, Inc., owned by the Shibuya Family, will financially support Elegance International through its financial hardship as it endures changes in enrollment and the education sector. The Commission noted that ESP Investment Holdings, Inc., however, did not submit a copy of its financial statements for the Commission’s review.”

As the ACCSC decision letter makes clear, the Commission was not persuaded by the various promises of financial assistance for the school: “[w]hile the Commission appreciated the pledged support for the school, the Commission’s previous letters made clear that definitive action, not additional promises in the form of pledges or attestations, was the required cure for the school’s weakening financial position and therefore essential to demonstrating compliance with the Commission’s financial standards.” The Commission concluded: “[i]n sum despite multiple opportunities to do so, Elegance International failed to prove” that it met the Commission’s clear standards for financial viability.

The Commission’s withdrawal letter set out a second reason for its decision: Elegance International did not demonstrate that the “school’s graduates can be classified as employed in field for a reasonable period of time in a position that can be considered sustainable.” The Commission determined that this failure violated *Section VII (B)(1)(b), Substantive Standards, Appendix VII, Standards of Accreditation*. The Commission’s concern in this regard was very specific: “Elegance International failed to prove that for the Artistry Make-up program, an acceptable percentage of graduates garner employment in the field that can be considered sustainable relative to the period of time employed and income earned.”

The Commission took note of the school’s updated policy for employment classifications which states: “In the institution’s opinion, 5 compensated event/project based jobs are considered sustainable employment because when paired with the 120 externship hours component requirements, it adds to the graduate’s already existing portfolio and resume thus providing them with more on-set experience and allowing them to book additional work. While the total income of these 5 event/project based jobs appears to be minimal, when compared to traditional employment income, it should be understood that this is just a portion of what graduates will be employed in and earning annually.” After considering examples of the application of the new policy, the Commission was not persuaded that the school had established compliance with the relevant standard: “In addition and with consideration of Elegance International’s new five event/project job policy, even with an additional two event/project jobs for the aforementioned graduates [those in the Commission’s examples], the generated income would appear to remain minimal and would not support a classification of sustainable employment in the Artistry make-up field. Furthermore, regarding Elegance International’s

justification that five event/projects paired with the 120 externship hours component requirements allows the graduate to book additional work, the Commission found that Elegance International failed to demonstrate that the graduates in fact book additional event/projects on a regular and continuous basis allowing graduates to exceed the five event/project jobs.”

A second element of the school’s revised employment policy failed to assuage the Commission’s compliance concerns. According to the policy, “[e]vent or project workdays can vary from one to ten plus hour workdays because of the nature of the industry. They can range from private client makeups that are completed in less than two hours to 15-hour music video workdays. In order for graduates to be considered placed in this category they must have completed 5 paid event/project based jobs within 6 months of their graduation date.” The Commission rejected the contention that this policy complied with the relevant accreditation standard:

Assuming a graduate gains five-paid event/project based jobs every six months, per the school’s policy, the Commission failed to see how ten event/project jobs in a one-year period can be considered employed in the field for a reasonable period of time. Per that policy, ten event/project jobs in a twelve-month period could equate to as little as 10 hours and earn the graduate less than \$1,000. (September 20, 2019 letter, p. 5).

The Commission concluded that graduate adherence to the policy would not “constitute regular and on-going employment and fails to support the school’s position that the graduate garnered employment that generates sustainable income earned in the field of Artistry make-up. This is of particular note given the \$18,500 tuition for the program.”

The Commission’s decision letter recited a third reason for withdrawing the school’s accreditation – “Elegance International failed to demonstrate successful student achievement through acceptable rates of graduate employment in the career field for which the school provided education and support these rates through the school’s verifiable records and documentation of initial employment of its graduates” as required by *Section VII (B)(1)(b), Substantive Standards, Standards of Accreditation*.

The withdrawal letter includes a table reciting graduation and employment rates for the last two years which shows that Elegance International did not meet required student achievement rate benchmarks in the January 2018 and March 2019 Report Date. The Commission observed that the school contended that graduates of the 12-month and 15-month Artistry of Makeup programs are below benchmark “because the graduates reported as ‘Graduate-Unemployed’ on the Graduation and Employment charts have not yet been verified.” Elegance International had not yet categorized them as employed in the field because it had not yet received the verified employment and employment verification forms. There were 90 graduates reported for the 12-month Artistry of make-up program, according to the school, and “once the school completed the verification items, the school would classify the 90 graduates in the ‘Graduates-Employed in field’ category thus raising the employment rate.” These assertions did not mollify the Commission’s concerns: “Elegance International failed to support the school’s in-field employment classifications by providing complete employment verification forms” despite “multiple opportunities to provide verified employment documentation to support the school’s expectation to reclassify the 90 graduates as employed in-field.” The withdrawal letter concluded: “since Elegance International failed to demonstrate sustainable in-field employment for the Artistry of Make-up program, even with the new five event/project job policy, the graduates could not be classified appropriately as employed in the field and therefore the employment rate would not meet benchmark.”

Elegance International’s Grounds for Appeal

The fundamental argument advanced in Elegance International’s Grounds for Appeal is that “the Commission has acted in contravention of its own standards and evidence in the record, leading to an impermissibly arbitrary and capricious result – the withdrawal of EI’s accreditation” (Grounds for Appeal, p. 7). In addition, the Grounds for Appeal include “new financial information” which “the Appeals Panel has authority to consider...in assessing EI’s compliance with Standard I(C)(1) (financial soundness)” (Grounds for Appeal, p. 7). The appeal document challenges the Commission’s determinations in the three areas which formed the basis for its decision to withdraw the school’s accreditation: financial soundness, graduate employment classification, and student achievement based on placement rates.

Financial Soundness

The gravamen of Elegance International’s objection to ACCSC’s finding that the school was not in compliance with *Section I (C)(1), Substantive Standards, Standards of Accreditation* is that the finding is arbitrary and capricious, in violation of Commission requirements, and unsupported by the factual record “because it is based, at least in part, on EI’s failure to provide information that the Commission never specifically requested [and as] a result, the Commission’s determination violates the Commission’s own procedural requirements to permit EI an opportunity to respond fully to financial soundness concerns” (Grounds for Appeal, p. 7). More particularly, Elegance International contended that “the Commission never made a specific request to EI for the financial statements of affiliate ESP Investment Holdings, Inc., yet states in the Withdrawal Action, (page 3), that EI’s failure to provide this information renders its response to the Commission incomplete” (Grounds for Appeal, p. 8). The school further argued that the Commission “despite several other detailed financial information requests in its August 2018 through August 2019 notices to EI, never specifically requested the ESP Investment Holdings, Inc. financial statement” (Grounds for Appeal, p.8; See also Appeal Hearing Transcript, pgs. 15-23).

The school also asserted that “the Commission did not clearly notify EI that to demonstrate compliance with the Standards, EI’s parent or affiliates needed to take ‘definitive action’ to support EI financially” (Grounds for Appeal, p.8). To this end, Elegance International cited the Commission’s language in its withdrawal letter—*viz.* “definitive action, not additional promises in the form of pledges or attestations, was the required cure for the school’s weakening financial position and therefore essential to demonstrating compliance with the Commission’s financial standards” (Grounds for Appeal, p.8). Elegance International argued that it provided the Commission with the information the Commission had specifically requested and in fact had “submitted more than the Commission requested: an attestation from Campus Hollywood, Inc. and an attestation from ESP Investment Holdings, Inc. the affiliate of the sole owner of Campus Hollywood, Inc.” (Grounds for Appeal, p.9). The appeal document posits that “[a]t no time did the Commission make clear to EI that its demonstration of financial soundness under *Section I (C)(1)* required ‘definitive action’ beyond an attestation, nor did the Commission define what action by EI would be deemed sufficient ‘definitive action’ to demonstrate financial soundness under the Standards” (Grounds for Appeal, p. 9). This, Elegance International posited, is arbitrary and capricious because it “violates Standard V(C)(4) which requires clear notice and an opportunity to respond regarding financial soundness concerns” (Grounds for Appeal, p. 9).

The Grounds for Appeal advance the proposition that ACCSC’s “Standards do not provide a basis for the Commission to withdraw accreditation on financial losses alone” (Grounds for Appeal, p. 9). Instead, Elegance International asserted, the Commission “must follow the language of its own financial soundness standard and establish evidence that the financial state of the school is such that operations and student education is or will be impacted” (Grounds for Appeal, p. 9). Furthermore, the school claims that there is “no evidence in the record or cited by the Commission that EI is failing to properly operate the school, other

than the student achievement standards the Commission raises as grounds two and three of the Withdrawal Action...which cannot sustain a Withdrawal Action” (Grounds for Appeal, p. 9).

Rounding out its arguments concerning financial soundness, Elegance International submitted additional financial information pursuant to *Section VIII (C)(2)(c), Rules of Process and Procedure, Standards of Accreditation* which permits the Appeals Panel to consider new financial information when the failure to meet the Commission’s financial soundness standard remains the only basis for withdrawal of accreditation. Included with the Grounds for Appeal was a copy of the audited financial statement for ESP Investment Holdings, Inc. (Exhibit 4) as well as a signed Credit Agreement between Campus Hollywood, Inc. and Elegance International that makes available to the school up to \$730,000 through October 2020 which can be extended by agreement of the parties (Exhibit 5). According to the Grounds for Appeal, “[t]his credit line is made available by Campus Hollywood, Inc. to ensure EI has liquidity to draw upon as needed as it moves toward profitability” (Grounds for Appeal, p. 11).

Graduate Employment Classification/Sustainable Employment

The school’s Grounds for Appeal challenge the Commission’s conclusion that Elegance International failed to demonstrate that “an acceptable percentage of graduates garner employment in the field that can be considered sustainable relative to the period of time employed and income earned” (Grounds for Appeal, p. 11). Elegance International argued that this determination is arbitrary and capricious because the Commission “impermissibly imputed a minimum income requirement into its sustainability of employment standard. ACCSC Standards do not require demonstration of a minimum income level of graduates in order to establish the reasonableness of a school’s employment classification policy” (Grounds for Appeal, p. 11).

The school described the Commission’s decision to withdraw accreditation as being “based on the conclusion that EI failed to adhere to the Commission’s Guidelines for graduates of the Artistry of Makeup program because the amount of income earned by graduates does not evidence ‘sustainable’ employment (Grounds for Appeal, p. 11). “Nowhere in the Standards,” the school contended, “is there a requirement that a graduate even report income, or related to the amount of income that must be demonstrated for the school to consider the graduate classified as employed, so long as the income is derived from the training received” (Grounds for Appeal, p. 11). In this case, “the Commission varied from its published standard by ‘reading in’ a minimum threshold requirement, and thus the Withdrawal Action based on that improper standard is arbitrary and capricious” (Grounds for Appeal, p. 13). According to the school, “[n]owhere in the Standard on which the Commission bases its withdrawal is EI required to demonstrate salary level or income, but rather only the existence of paid, training-related income” (Grounds for Appeal, p. 13).

The Grounds for Appeal include other objections to the Commission’s findings with respect to sustainable employment:

- Imputing an income requirement into the sustainability standard would directly conflict with the regulations of the California BPPE to which Elegance International is subject. The BPPE rules, according to Elegance International, do not require a self-employed/freelance graduate to meet minimum income requirements (Grounds for Appeal, P. 14).
- Elegance International is required to provide each student who enrolls in the Artistry of Makeup program “with clear disclosures as to the fact that graduates of the program often end up self-employed freelancers, a status that comes with uncertainty as to timing and income from paid work” (Grounds for Appeal, pgs. 14-15).

Student Achievement Based on Placement Rates

With respect to the Commission’s determination that Elegance International failed to demonstrate successful student achievement through acceptable rates of graduate employment or to support such rates through verifiable documentation, the school contended that the finding is arbitrary and capricious because (i) the school’s failure to provide verifiable records is a consequence of an absence of clarity in the relevant Commission standards and (ii) ACCSC ignored evidence in the record that Elegance International met or exceeded Commission benchmarks by the time the 2019 Annual Report was submitted (Grounds for Appeal, p. 16; See also Appeal Hearing Transcript, pgs. 24-27).

The Grounds for Appeal assert that Elegance International’s “failure to provide verifiable records and documents for self-employed graduates, leading to lower than acceptable graduation rates in some instances is a direct result of the lack of clarity in the Commission’s standards” (Grounds for Appeal, p. 16). The school states that the record in this case “demonstrates that EI and the Commission tangled for years regarding EI’s policies and procedures for classifying graduates of the Artistry of Makeup programs as employed, particularly the majority who are self-employed” (Grounds for Appeal, p. 16). In its Grounds for Appeal, the school related in detail the give and take between Elegance International and the Commission over the “three-gig” policy, the evolution of the “five-gig” policy, and the definition of “sustainable” (Grounds for Appeal, pgs. 17-18). The appeal document concludes that “[t]he tortured history of EI’s attempts to satisfy an unclear and shifting standard of sustainable employment illustrate the arbitrary and capricious nature of the Commission’s adverse action based on failure to meet employment benchmarks” (Grounds for Appeal, p. 18). Furthermore, the Grounds for Appeal argue that “EI was working to refine its placement definition and documentation in the absence of a clear standard for EI to follow [and that] [w]ithout clear standards, EI was left guessing as to needed changes to its verification process, with each change creating gaps and backlogs in obtaining documentation to meet the Commission’s vague standard” (Grounds for Appeal, p. 19).

One final argument broached in the Grounds for Appeal is that the Commission erred in determining that Elegance International did not meet benchmark employment rates because it relied on interim report date data. Specifically, Elegance International contended the following:

By basing its Withdrawal Action on the March 2019 Report Date cohort for which EI was not given sufficient time to verify placement rates, combined with the changes to the EI placement verification procedures necessitated by the Commission’s lack of clear guidance on the placement standard leading to delays in obtaining verification for the March 2019 Report Date cohort, the Commission’s determination that EI was unable to meet the 2019 Annual Report student achievement standards is reversible not supported by evidence in the record, leading to an arbitrary and capricious result” (Grounds for Appeal, p. 20).

Appeals Panel Decision

Section VIII (B) of the Commission’s Rules of Process and Procedure, Standards of Accreditation, provides that on appeal, the school has the burden of proving that the Commission’s decision to withdraw accreditation “was arbitrary, capricious, or otherwise in substantial disregard of the criteria or procedures of the Commission, or not supported by substantial evidence in the record on which the Commission took action.” ACCSC’s Rules of Process and Procedure provide that the Appeals Panel has the authority to affirm, reverse, remand, or amend the Commission’s decision to withdraw Elegance International’s accreditation. After carefully reviewing the record in this matter including the presentations made at the appeal hearing, the Appeals Panel concluded that Elegance International has not carried its burden of proof

on appeal and accordingly the Panel affirms the decision of the Commission to withdraw the accreditation of Elegance International. The Appeals Panel’s conclusion is set forth below.

As a preliminary matter, the Appeals Panel believed that it is important to underscore two important aspects of ACCSC accreditation which bear directly on the arguments advanced by Elegance International but which the school did not adequately take into account in its appeal.

First, the obligation to demonstrate continuous compliance with all accreditation standards and policies lies exclusively with the school. *ACCSC Standards of Accreditation, Introduction, Preamble* provides:

The burden rests with the school to establish that it is meeting the standards. A school must supply the Commission with complete, truthful, and accurate information and documentation showing the school’s compliance with all accrediting standards if the school is to be granted and maintain accreditation. A high level of reliance is placed upon information, data, and statements provided to the Commission by a school (emphasis added).

It is the school’s responsibility to provide the information and documentation necessary to prove that it meets all accreditation requirements:

*While the Commission employs its own fact-finding methods to determine a school’s compliance with accrediting standards, such as on-site evaluation teams’ observations, interim monitoring, and review of information provided by third parties, the burden rests with the school to establish it is meeting all requirements of the Standards of Accreditation. Moreover, the Commission’s deliberations and decisions are made on the basis of the written record of an accreditation review. Schools do not have the right to appear before the Commission. Accordingly, a school must supply the Commission with complete documentation of the school’s compliance with all accrediting standards and requirements if the school is to be granted and maintain accreditation (emphasis added) (*Sections I.F and G.1, Rules of Process and Procedure, Standards of Accreditation*).*

The responsibility to establish compliance is continuous – “[p]articipation in the process of accreditation is voluntary on the part of the school [and] [b]y applying for and receiving accreditation, a school accepts the obligation to demonstrate continuous compliance with the *Standards of Accreditation*” (*Section I (B)(4), Rules of Process and Procedure, Standards of Accreditation*). The inability of a school to demonstrate continuous compliance with accreditation requirements can lead to adverse actions including withdrawal of the school’s accreditation. *Section I (G)(3), Rules of Process and Procedures, Standards of Accreditation*) states: “[f]ailure by a school to maintain continued compliance with all ACCSC standards and requirements will lead to the Commission taking appropriate action as described in *Section VII, Rules of Process and Procedure, Standards of Accreditation*.”

Second, the Commission’s approach to accreditation as manifested through its *Standards, Rules of Process and Procedure*, policies and guidance documents is not a cookbook or formulaic process where the accreditor maintains highly detailed, specific, and numeric criteria which a school must “check the box” and meet. The Commission’s accreditation process “sets forth the base of essentials (i.e., standards of best practice) against which a school studies and evaluates itself. Each school determines its own educational objectives, keeping in mind, however, that such objectives must be appropriate for a postsecondary-educational institution and serve to support the success of students” (*Introduction, ACCSC Standards of Accreditation*). “The standards and accreditation process emphasize educational quality by focusing on outcomes. What actually happens as a consequence of the teaching-learning processes in a school, and what is the evidence of these results?” (*Introduction, ACCSC Standards of Accreditation*). “Necessarily, the Commission concerns itself with inputs (the kinds of students in the school and the recruiting, admission, and testing procedures that produce them); resources (instructors, equipment, library, etc.), and processes

(how the school actually operates). All of these conditions are evaluated within the context of the school’s stated mission and its demonstrated achievements.” Given this overarching approach to accreditation, it is rare that the Commission has specific numeric targets that a school must meet, graduation and employment rates being two such areas.

With these principals in mind, the Appeals Panel examined the grounds for appeal submitted by Elegance International.

Financial Soundness

The basis for Elegance International’s objection to ACCSC’s finding that the school was not in compliance with *Section I (C)(1), Substantive Standards, Standards of Accreditation* is that it was predicated on the school’s failure to provide information that the Commission never specifically requested—*i.e.* ACCSC never made a request for the financial statements of affiliate ESP Investment Holdings, Inc. despite the fact that it had requested other detailed financial information from Elegance International from August 2018 through August 2019. Elegance International also argued that the Commission did not clearly advise the school of what “definitive action” had to be taken by the school, its parent, and affiliates had to take in order to demonstrate compliance with the Commission’s financial soundness standard. The Appeals Panel is not persuaded by either of these arguments.

As the discussion above makes abundantly clear, it is the absolute responsibility of the school to provide the Commission with all the documentation necessary to establish compliance with accreditation standards including those relating to the financial soundness of the school. The fact that ACCSC may have requested certain documents previously does not vitiate this obligation. If Elegance International raised the prospect of funding from ESP Investment Holdings, Inc. as a way to address the Commission’s concerns about the financial soundness of the school, it is Elegance International’s responsibility to identify and provide all of the materials to the Commission to prove that the funding source is viable and fully available. It is not the Commission’s responsibility to specifically identify and request all the documents which the school should submit to meet its burden. It was the school’s duty to furnish the evidence necessary to prove its position and it cannot divest itself of that obligation on the ground that the Commission did not specifically ask for it.

Elegance International’s argument that ACCSC did not tell the school what “definitive action” to take suffers from the same defect. The record in this matter makes clear that the Commission was growing increasingly frustrated by the various unrealized promises of financial support for the school: “While the Commission appreciated the pledged support for the school, the Commission’s previous letters made clear that definitive action, not additional promises in the form of pledges or attestations, was the required cure for the school’s weakening financial position and therefore essential to demonstrating compliance with the Commission’s financial standards” (September 20, 2019 Withdrawal Letter, p. 3). The Commission’s prior communications provided clear notice to Elegance International that the time for unrealized promises and pledges of financial assistance was over and that the school had to prove that such assistance was in place and in effect. It was never the Commission’s responsibility to tell Elegance International what to do to prove its compliance with the financial standards; that was solely the school’s responsibility. The Appeals Panel found that Elegance International cannot offload that duty by asserting that the Commission did not tell it what action to take.

Citing *Section VIII(C)(2)(c), Rules of Process and Procedure, Standards of Accreditation* which permits the Appeals Panel to consider new financial information under certain circumstance, Elegance International included new financial information with its Grounds for Appeal including a copy of an audited financial statement for ESP Investment Holdings, Inc. and a Credit Agreement between Campus Hollywood, Inc.

and Elegance International that makes available to the school up to \$730,000. The rules governing the information which an Appeals Panel may consider are quite clear.

Section VIII(B)(4), Rules of Process and Procedure, Standards of Accreditation stipulate that with the exception of certain financial information, “[t]he Appeals Panel will only consider that information that was before the Commission at the time that the adverse action was taken.” *Section VIII (C)(2)(c), Rules of Process and Procedure, Standards of Accreditation* provides that “In instances where the only remaining deficiency cited by the Commission in an adverse accreditation decision is the institution’s failure to meet the Commission’s standards pertaining to financial soundness, an institution may present new financial information under the following conditions:

- i. The financial information is significant as determined by the Commission;
- ii. The financial information was unavailable prior to the adverse accreditation decision;
- iii. The financial information bears materially on the financial deficiencies identified by the Commission; and
- iv. A school may present new financial information only once and any final determination reached with respect to the new financial information does not provide a new basis for appeal.”

As set out below, the Appeals Panel found that financial concerns are not the only remaining deficiency and therefore the Appeals Panel is precluded from considering the new financial information tendered by the school.

Graduate Employment Classification/Sustainable Employment

The school’s Grounds for Appeal object to the Commission’s conclusion that Elegance International failed to demonstrate that “an acceptable percentage of the school’s graduates can be classified as employed in the field for a reasonable period of time in a position that can be considered sustainable” (September 20, 2019 Withdrawal Letter, p. 5). Elegance International argued that this determination is arbitrary and capricious because the Commission “impermissibly imputed a minimum income requirement into its sustainability of employment standard. ACCSC Standards do not require demonstration of a minimum income level of graduates in order to establish the reasonableness of a school’s employment classification policy” (Grounds for Appeal, p. 11). The school advances several variations of its argument with respect to graduate employment all of which are predicated on the notion that the Commission “imputed” or “read in” an income requirement into the sustainability standard.

For several reasons, the Appeals Panel concluded that the school’s arguments do not establish that the Commission’s findings with respect to graduate employment classification are arbitrary and capricious. First, by focusing almost myopically on its “income” arguments, Elegance International ignored other essential elements of the Commission’s determination that the school was not in compliance with the sustainability requirement. *Appendix VII—Guidelines for Employment Classification, Standards of Accreditation*, sets the standard which a school must meet: “The school must be able to justify the classification of each graduate as employed in a training related field and maintain verifiable employment records....” In so doing, the school is directed to use specific guidelines including, inter alia: “the employment classification is appropriate and reasonable based on the educational objectives of the program”; the “employment is for a reasonable period of time, is based on program objectives, and can be considered sustainable”; and “the employment is directly related to the program from which the individual graduated, aligns with a majority of the education and training objectives of the program, and is a paid position.” The plain language of the Withdrawal Letter demonstrates that the Commission took into account all of these factors, not just the income from the gigs worked by the graduates: “Elegance International

failed to prove that for the Artistry Make-up program, an acceptable percentage of graduates garner employment in the field that can be considered sustainable relative to the period of time employed and income earned” (September 20, 2019 Withdrawal Letter, p. 4).

Second, the Appeals Panel found no merit to the claim that the Commission “read into” the accreditation standards an income requirement which does not exist and of which Elegance International had no notice. In fact, income is an inherent factor in several of the accreditation requirements including whether the employment is sustainable, whether it is a paid position, whether it aligns with the educational objectives of the program, and whether the employment can be considered to be in place for a reasonable period of time. ACCSC did not “impute” an income element to the standards. It is instead, an important and relevant element in determining compliance.

Third, as described in detail above, the school has the evidentiary burden of proving compliance with accreditation requirements, including those related to student achievement and graduate employment. The Commission had concluded that Elegance International had not satisfied that obligation in several respects clearly laid out in the Withdrawal Letter on pages 4 and 5. Elegance International contended that there is no requirement that graduates report income or that the amount of income be established for the graduate to be considered employed, that imputing an income requirement would conflict with California BPPE, and that Elegance International was only required to demonstrate the existence of paid, training-related income. The school’s argument stands its evidentiary burden on its head. Elegance International is obligated to make the demonstration that it satisfies the Commission’s requirements and certainly the income earned by graduates is inherently fundamental to several ACCSC requirements governing student achievement and graduate employment. Elegance International cannot avoid this duty by trying to recharacterize the role of income mentioned in the withdrawal decision. The Appeals Panel found that the Commission’s reference to income is justifiable because it did not establish a metric but simply served as a reference point in making a determination regarding reasonability and sustainability.

Graduate Employment in Career Field

In its Withdrawal Letter, the Commission determined that Elegance International had not demonstrated successful student achievement through acceptable rates of graduate employment in the career field for which training was provided nor had it supported the rates through verifiable documentation of initial employment of its graduates. The letter also cited employment rates for January 2018 and March 2019 which fell well below the benchmark rates. In its Grounds for Appeal, Elegance International contended that this finding is arbitrary and capricious because (i) the school’s failure to provide verifiable records is a consequence of an absence of clarity in the relevant Commission standards and (ii) ACCSC ignored evidence in the record that Elegance International met or exceeded Commission benchmarks by the time the 2019 Annual Report was submitted.

The Appeals Panel found the school’s arguments unpersuasive. Elegance International’s contention is centered around its view that Elegance International and the Commission “tangled for years” regarding the school’s policies and procedures for classifying graduates of the Artistry of Makeup program as employed. The Appeals Panel did not see the record that way. Instead, in the view of the panel, the evidence shows a persistent failure by Elegance International to carry its burden of satisfying the Commission that it meets the relevant standard. The Commission was consistently clear about its concerns with Elegance International’s policies and compliance but the school was unable to put together a coherent package of arguments and evidence that assuaged ACCSC’s concerns. Elegance International also asserted that the school could not “satisfy an unclear and shifting standard” yet the school did not identify the respects in which the standard was “unclear” and “shifting.” The fact that Elegance International could not make the

case for compliance does not mean that the standard was unclear or changing; the standard remained the same – it was the school’s various efforts to demonstrate compliance which appeared to be shifting.

Elegance International also contended that the Commission erred in determining that the school did not meet benchmark employment rates because the Commission relied on interim Report Date data. Specifically, Elegance International asserted that by basing its Withdrawal Action on the March 2019 Report Date cohort, it was not given adequate time to verify and report on the graduate placement rates. Much of the school’s argument rests on its contention that the 90 graduates on the 12 month Graduate & Employment Chart, “once complete with their additional verification items, will be moved to ‘Graduates-Employed in Field’ increasing the percentage above the Commission’s benchmark.” The Commission’s issue with this argument appears to have been that Elegance International had multiple opportunities to provide verified employment documentation to support the school’s expectation to reclassify the 90 students as employed in field but failed to do so (September 20, 2019 Withdrawal Letter, p. 6). In addition, the Commission concluded that “since Elegance International failed to demonstrate sustainable in-field employment for the Artistry of Make-up program, even with the new five event/project job policy, the graduates could not be classified appropriately as employed in the field and therefore the employment rate would not meet benchmark” (September 20, 2019 Withdrawal Letter, p. 6). Considering the record as a whole, the Appeals Panel agreed with the Commission’s finding. It appeared to the Appeals Panel that the real problem was the school’s failure to provide the evidence necessary to persuade the Commission that the 90 students could, within the boundaries of ACCSC requirements, be moved to the Employed in Field category and the school’s failure to furnish documentary proof that the school’s representations with respect to those graduates would in fact occur.

Conclusion

For the foregoing reasons, it is the unanimous opinion of the Appeals Panel that the decision of the Commission to withdraw the accreditation of Elegance International be affirmed.

If you have any questions pertaining to this matter, please feel free to contact me directly at 703.247.4520 or mcomis@accsc.org.

Sincerely,

(b)(6)

Michale S. McComis, Ed.D.
Executive Director



MAR - 9 2020

Hisatake Shibuya
President
Elegance International
6767 Sunset Boulevard
Hollywood, CA 90028

Sent via UPS
Tracking # 1Z37X7Y30102222562

OPE-ID: 02091200

Dear Mr. Shibuya:

This is to notify you that the U.S. Department of Education (Department) is hereby imposing an emergency action against Elegance International. The Department is taking this action under the authority of § 487(c)(1)(G) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1094(c)(1)(G), and the Department's regulations at 34 C.F.R. § 600.41(a)(3) and § 668.83.

This emergency action is based on a March 4, 2020 notice from the Accrediting Commission of Career Schools and Colleges (ACCSC) reporting the final withdrawal of Elegance International's accredited status, effective February 28, 2020. (Enclosure) Accreditation by a nationally recognized accrediting agency, such as ACCSC, is one of the statutory requirements that an institution must meet to be eligible to participate in the programs authorized under Title IV of the HEA. See 20 U.S.C. §§ 1001, 1002, and 1094. When Elegance International lost its accreditation, it became ineligible to participate in the Title IV programs since it no longer met the definition of an institution of higher education. Any further participation in the Title IV, HEA programs by Elegance International would constitute a violation of statutory requirements and a misuse of federal funds. Consequently, the likelihood of loss to the Department and the Title IV, HEA programs outweighs the importance of awaiting completion of the procedures for termination of eligibility in 34 C.F.R. Part 668, Subpart G.

By this emergency action, the Department withholds funds from Elegance International and its students and withdraws the authority of Elegance International to obligate and disburse funds under any of the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grants, Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan) programs. The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS Program. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, Elegance International is barred from initiating commitments of Title IV, HEA program funds to students by accepting Student Aid Reports under the Pell Grant Program or the TEACH Grant Program, by certifying applications for loans under the Direct Loan Program, or by issuing a commitment for aid under the campus-based

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
StudentAid.gov

programs. Elegance International is also barred from using its own funds or federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, and from crediting student accounts with respect to such assistance. Further, Elegance International may not release to students Direct Loan program proceeds and must return any loan proceeds to the lender. Finally, unless other arrangements are agreed to between Elegance International and the Department, the school may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action is in effect.

This emergency action is effective on the date of this letter, which is the date of mailing, and it will remain in effect until either a decision to remove the emergency action is issued in response to a request from Elegance International to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated in Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA funds.

You may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me, via overnight mail, at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Enforcement Unit
830 First Street, NE - UCP-3, Room 84F2
Washington, DC 20002-8019

Your request should state the dates on which you are available for the show-cause meeting or teleconference. If you request a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. Elegance International is entitled to be represented by counsel at the hearing and otherwise during the show-cause hearing.

II.

This is also to inform you that the Department intends to terminate the eligibility of Elegance International to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F), and the Department's regulations at 34 C.F.R. § 600.41(a)(1) and Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs.

This termination action is based on the same grounds that are stated in Part I of this notice. Elegance International lost its ACCSC accreditation on February 28, 2020. As of that date, Elegance International no longer met the definition of an institution of higher education, and,

therefore, it no longer qualified to participate in the Title IV, HEA programs. 20 U.S.C. §§ 1001, 1002, and 1094.

Termination of Elegance International's eligibility to participate in the Title IV, HEA programs will become final on March 30, 2020, unless we receive by that date a request for a hearing or written material indicating why the termination should not take place.

Elegance International may submit both a written request for a hearing and written material indicating why the termination should not take place. If Elegance International chooses to request a hearing or to submit written materials, you must write to me, via overnight mail, at the address in Part I of this notice.

If Elegance International requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. Elegance International is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If Elegance International does not request a hearing, but submits written material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 600.41(d) and § 668.94.

If you neither request a hearing nor submit written material by March 30, 2020, this proposed termination will become the final decision of the Department and will be effective with respect to Title IV, HEA program transactions on or after February 28, 2020. See 34 C.F.R. § 600.41(c)(2)(ii). The San Francisco/Seattle School Participation Division will then contact you concerning the proper procedures for closing out Elegance International's Title IV, HEA program accounts.

If you have any questions or desire any additional explanation of Elegance International's rights with respect to the emergency action or the termination action, please contact Kathleen Hochhalter at 303 844-4520, or by e-mail at Kathleen.Hochhalter@ed.gov. Ms. Hochhalter's facsimile transmission number is 202/275-5864.

Sincerely,

(b)(6)

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

Enclosure

cc: Michale McComis, Ed.D., Executive Director, ACCSC, via mccomis@accsc.org
Leeza Rifredi, Deputy Bureau Chief, Bureau for Private Postsecondary Education, via
Leeza.Rifredi@dca.ca.gov
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov

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Elegance International
Page 4

Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov



NATIONAL ACCREDITING COMMISSION OF CAREER ARTS & SCIENCES

3015 Colvin Street, Alexandria, VA 22314

PHONE (703) 600-7600 • www.naccas.org

October 25, 2019

VIA UPS

Ms. Gisele Bessis
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Palm Springs, CA 92264

CONFIDENTIAL
WITHDRAW-FINAL

Re: Champion Institute of Cosmetology, Inc.
611 South Palm Canyon Drive, #205
Palm Springs, CA 92264

Ref. #014338-00

Process: Withdrawal of Accreditation with Right to Appeal

Dear Ms. Bessis:

At a meeting held on August 21, 2019, the Board of Commissioners of the National Accrediting Commission of Career Arts & Sciences, Inc. (NACCAS) took an adverse action against the referenced institution, as noted above, with the right to appeal. The institution received notification of this action by letter dated September 26, 2019 (attached hereto as Attachment B). The institution received this letter on October 2, 2019 and had until October 22, 2019 to notify NACCAS of its intention to appeal the adverse decision and pay the applicable appeal fee. The institution did not appeal; therefore, the adverse decision is final, all appeal rights exhausted, effective October 25, 2019, in accordance with Section 8.1(b) of NACCAS' *Rules of Practice and Procedure*, and the institution shall be removed from the list of institutions accredited by NACCAS.

In accordance with Section 8.14 of NACCAS' *Rules*, you must take the following steps immediately upon receipt of this notice:

1. Inform all students enrolled in the institution and those seeking admission that accreditation by NACCAS has been withdrawn. However, you may inform current students that if they complete the program in which they are enrolled according to the usual schedule, they shall be considered graduates of an accredited institution.
2. Cease advertising accredited status in any way. You must remove from public view all certificates, decals, signs, emblems, and other evidence of accreditation. You must cease using printed materials or advertising indicating in any way that the institution is, or has been, accredited by NACCAS.

The institution may re-apply for candidate status at any time it meets the general eligibility requirements listed in Section 1.2 of the *Rules* and has paid any outstanding fees that were due NACCAS at the time of final withdrawal. However, the institution must wait one year before seeking initial accreditation. If there are any questions regarding this process, Darin Wallace at (703) 600-7600 ext. 159 may be contacted.

If any comments on this final adverse decision are submitted to NACCAS by the official representative of the institution within sixty (60) days, they shall be made available to the public. Comments should be submitted in writing to the attention of Darin M. Wallace at NACCAS headquarters and must be accompanied by an executed copy of NACCAS' Comment Disclosure Acknowledgement, which is attached with this letter.

Sincerely,

(b)(6)

(b)(6)

Tony Mirando, M.S., D.C.
Executive Director

TM/dmw

cc: D.Wallace; S.Goldstein; J.Benbow

Attachment A: Comment Disclosure Acknowledgement
Attachment B: NACCAS Letter dated September 26, 2019

ENCLOSURE

ATTACHMENT A
COMMENT DISCLOSURE ACKNOWLEDGEMENT

This Comment Disclosure Acknowledgement is submitted this ____ day of _____, 2019, by an authorized signatory of the institution named below (the "School").

The undersigned person ("I") hereby certifies to the National Accrediting Commission of Career Arts & Sciences, Inc. ("NACCAS") that s/he is authorized by the School to execute this Comment Disclosure Acknowledgement, and make the acknowledgements and agreements herein, on behalf of the School.

By letter dated September 26, 2019, NACCAS notified the School that NACCAS' Board of Commissioners had withdrawn the School's accreditation, with the right to appeal (the "Commission Action"). The School did not exercise its right to appeal in accordance with Part 9 of NACCAS' *Rules of Practice and Procedure* (the "Rules"). By letter dated October 25, 2019, NACCAS notified the School that, in accordance with NACCAS' *Rules*, the Commission Action described above had become final and no longer subject to appeal.

I understand and agree that, pursuant to Section 11.6 of NACCAS' *Rules*, NACCAS will make available to the public a summary of the reasons for the Commission Action described above, together with any comments submitted by the School. I understand and agree that the attached comments constitute the School's public comments on the Commission Action. I understand and agree that the School is not obligated to submit public comments and acknowledge that the attached comments are provided voluntarily.

I understand and agree that the public comments must be in summary format, professional in tone, and free of profanity and of slanderous or defamatory comments. I acknowledge that any comments which do not meet these requirements will not be made available to the public.

I understand and agree that, pursuant to Section 11.6 of NACCAS's *Rules*, the School's written comments will not be added to NACCAS' summary disclosure of the Commission Action if this Comment Disclosure Acknowledgement and the School's comments are not submitted in the required format **on or before December 24, 2019**.

I understand and agree that NACCAS has no responsibility for how the School's comments may be used or interpreted by others when made publicly available.

CHAMPION INSTITUTE OF COSMETOLOGY, INC.
NACCAS REF. #014338-00

By: _____
School's Owner or Authorized Signatory

Date

Print Name (Clearly)

Title

Champion Institute of Cosmetology, Inc.
NACCAS Ref. #014338-00
October 25, 2019
Page 3 of 3

ATTACHMENT B

NACCAS letter dated September 26, 2019.

ENCLOSURE A

STUDENT NAME	LAST NAME	FIRST NAME
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ENCLOSURE A

STUDENT NAME	LAST NAME	FIRST NAME
(b)(6)		

ENCLOSURE A

STUDENT NAME	LAST NAME	FIRST NAME
(b)(6)		

ENCLOSURE A

STUDENT NAME	LAST NAME	FIRST NAME
(b)(6)		



OCT 31 2019

Gisele Bessis
CEO/President
Champion Institute of Cosmetology
611 South Palm Canyon Drive, Suite 205
Palm Springs, CA 92264-7458

Sent via UPS
Tracking #1Z37X7Y30119312782
OPE ID: 04126400

Dear Ms. Bessis:

This is to notify you that the U.S. Department of Education (Department) is hereby imposing an emergency action against Champion Institute of Cosmetology (CIC). The Department is taking this action under the authority of § 487(c)(1)(G) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1094(c)(1)(G), and the Department's regulations at 34 C.F.R. § 600.41(a)(3) and § 668.83.

This emergency action is based on an October 25, 2019 notice from the National Accrediting Commission of Career Arts and Sciences (NACCAS) reporting the final withdrawal of CIC's accredited status, effective October 25, 2019. (Enclosure). Accreditation by a nationally recognized accrediting agency, such as NACCAS, is one of the statutory requirements that an institution must meet to be eligible to participate in the programs authorized under Title IV of the HEA. See 20 U.S.C. §§ 1001, 1002, and 1094. When CIC lost its accreditation on October 25, 2019, it became ineligible to participate in the Title IV programs since it no longer met the definition of an institution of higher education. Any further participation in the Title IV, HEA programs by CIC would constitute a violation of statutory requirements and a misuse of federal funds. Consequently, the likelihood of loss to the Department and the Title IV, HEA programs outweighs the importance of awaiting completion of the procedures for termination of eligibility in 34 C.F.R. Part 668, Subpart G.

By this emergency action, the Department withholds funds from CIC and its students and withdraws the authority of CIC to obligate and disburse funds under any of the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Iraq and Afghanistan Service Grants, Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan) programs. The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, CIC is barred from initiating commitments of Title IV, HEA program funds to students by accepting Student Aid Reports under the Pell Grant Program or the TEACH Grant Program, by certifying applications for loans under the Direct Loan

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
StudentAid.gov

Program, or by issuing a commitment for aid under the campus-based programs. CIC is also barred from using its own funds or federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, and from crediting student accounts with respect to such assistance. Further, CIC may not release to students Direct Loan program proceeds and must return any loan proceeds to the lender. Finally, unless other arrangements are agreed to between CIC and the Department, the school may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action is in effect.

This emergency action is effective on the date of this letter, which is the date of mailing, and it will remain in effect until either a decision to remove the emergency action is issued in response to a request from CIC to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated in Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA funds.

You may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me, via overnight mail, at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Enforcement Unit
830 First Street, NE - UCP-3, Room 84F2
Washington, DC 20002-8019

Your request should state the dates on which you are available for the show-cause meeting or teleconference. If you request a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. CIC is entitled to be represented by counsel at the hearing and otherwise during the show-cause hearing.

II.

This is also to inform you that the Department intends to terminate the eligibility of CIC to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F), and the Department's regulations at 34 C.F.R. § 600.41(a)(1) and Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs.

This termination action is based on the same grounds that are stated in Part I of this notice. CIC lost its NACCAS on October 25, 2019. As of that date, CIC no longer met the definition of an institution of higher education, and, therefore, it no longer qualified to participate in the Title IV, HEA programs. 20 U.S.C. §§ 1001, 1002, and 1094.

Termination of CIC's eligibility to participate in the Title IV, HEA programs will become final on November 20, 2019 unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. CIC may submit both a written request for a hearing and written material indicating why the termination should not take place. If CIC chooses to request a hearing or to submit written materials, you must write to me, via overnight mail, at the address in Part I of this notice.

If CIC requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. CIC is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If CIC does not request a hearing, but submits written material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 600.41(d) and § 668.94.

If you neither request a hearing nor submit written material by November 20, 2019, this proposed termination will become the final decision of the Department and will be effective with respect to Title IV, HEA program transactions on or after October 25, 2019. See 34 C.F.R. § 600.41(c)(2)(ii). The San Francisco/Seattle School Participation Division will then contact you concerning the proper procedures for closing out CIC's Title IV, HEA program accounts.

If you have any questions or desire any additional explanation of CIC's rights with respect to the emergency action or the termination action, please contact Tara Sikora at 215/656-6488, or by e-mail at tara.sikora@ed.gov. Ms. Sikora's facsimile transmission number is 202/275-5864.

Sincerely,

(b)(6)

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

Enclosure

cc: Tony Mirando, Executive Director, NACCAS, via amirando@naccas.org
Dr. Michael Marion, Jr., Chief, California Bureau for Private Postsecondary Education, via Michael.Marion@dca.ca.gov
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov