Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833
P.O. Box 980818, West Sacramento, CA 95798-0818
P (916) 431-6959 F (916) 263-1897 www.bppe.ca.gov

CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Chris Hitchko, Owner
Show Up Fitness Academy
7615 Sunset Blvd.
West Hollywood, CA 90046

INSTITUTION CODE: Unapproved
CITATION NUMBER: 1718024
CITATION ISSUANCE/SERVICE DATE: April 25, 2018
DUE DATE: May 25, 2018
FINE AMOUNT: $ 100,000.00
ORDER OF ABATEMENT INCLUDED: Yes

Christina Villanueva issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Discipline Manager for the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to Chris Hitchko, Owner, of Show Up Fitness Academy (Institution) located at 7615 Sunset Blvd., West Hollywood, CA 90046, pursuant to Business and Professions Code section 125.9 and 149; California Education Code (CEC) section94944; and Title 5 of the California Code of Regulations (5 CCR) section75020 for the violation(s) described below.

BACKGROUND

On July 24, 2017, the Bureau received a complaint against Show Up Fitness Academy (SUFA) for operating without Bureau approval.

The Bureau determined that SUFA is conducting business as a private postsecondary educational institution based on the Bureau staff's research of SUFA's website on March 20, 2018, at www.showupacademy.com, and a brochure obtained from SUFA's West Hollywood location on October 23, 2017.

VIOLATION(S)

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5 CCR code) section(s) of law you are charged with violating.
1.	Violation: **CEC 94886. Approval to Operate Required** *"Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter."* **CEC 94817.5. Approved to Operate or Approved** *"Approved to operate" or "approved" means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs."* **CEC 94868. To Offer to the Public** *"To offer to the public" means to advertise, publicize, solicit, or recruit."* **CEC 94869. To Operate** *"To operate" means to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided."* **CEC 94902. General Enrollment Requirements** *(a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution.* *(b) An enrollment agreement is not enforceable unless all of the following requirements are met:* *(1) The student has received the institution's catalog and School Performance Fact Sheet prior to signing the enrollment agreement.* *(2) At the time of the execution of the enrollment agreement, the institution held a valid approval to operate.* *(3) Prior to the execution of the enrollment agreement, the student and the institution have signed and dated the information required to be disclosed in the Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of Section 94910. Each of these items in the Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student.* *(c) A student shall receive a copy of the signed enrollment agreement, in writing or electronically, regardless of whether total charges are paid by the student.* Based on the Bureau's investigation, SUFA is operating as a private postsecondary educational institution at 7615 Sunset Boulevard, West Hollywood, CA 90046 without Bureau approval. Through the Bureau staff's research of SUFA's website on March 20, 2018, at www.showupacademy.com and a brochure obtained from SUFA's West Hollywood location on October 23, 2017 by Bureau staff, the Bureau confirmed that SUFA is offering a Personal Trainer program for $4,999. CEC 94886 requires SUFA to have the Bureau's approval to operate. SUFA has not filed an application with the Bureau for approval to operate; nor has it demonstrated eligibility for exemption from CEC 94886. Therefore, SUFA is operating in violation of CEC 94886.

	Order of Abatement: The Bureau orders that the Institution cease to operate as a private postsecondary educational institution. The Institution must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media (including and not limited to www.showupacademy.com), until such time as an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone service numbers including and not limited to (424)272-1869 associated with Show Up Fitness Academy until such time as an approval to operate is obtained from the Bureau. The Institution must provide a refund to all students enrolled at the school prior to the receiving an approval to operate from the Bureau as the enrollment agreements signed by the students are not enforceable since the school does not have a valid approval to operate. To comply with the Order of Abatement the Institution must submit a school closure plan to the Bureau pursuant to California Education Code 94926. The institution must provide a roster of each student currently enrolled at the Institution. The roster must include the name of the student, their contact information (including phone number, email address, and physical address), the program in which they are enrolled, the amount paid for the program, and the amount the student was refunded. **Assessment of Fine** The fine for this violation is $100,000.00
TOTAL ADMINISTRATIVE FINE DUE: $100,000.00	

ASSESSMENT OF A FINE

In accordance with CEC section 94944; and 5 CCR section 75020(b), the Bureau hereby orders this assessment of a fine in the amount of **$100,000.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

COMPLIANCE WITH ORDER OF ABATEMENT

In accordance with the provisions of 5 CCR Section 75020 (b) the Bureau hereby issues the order(s) of abatement described above. In accordance with Business and Professions Code Section 149, the Bureau may disconnect any telephone service numbers used by an unapproved Institution. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **May 25, 2018,** you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **April 25, 2018.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **May 25, 2018**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Gurinder Sandhu, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Gurinder Sandhu, Citation Analyst, at 916-431-6940 or Gurinder.sandhu@dca.ca.gov.

Christina Villanueva
Discipline Manager

Date 4/25/18

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First-Class Mail