



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

To: Asako Suzuki, Owner
Ice Gel USA/Gem Nail and School/Gel Nail and Accessories Hana
8305 Vickers Street, #112
San Diego, CA 92111

INSTITUTION CODE: Unapproved
CITATION NUMBER: 1920087
CITATION ISSUANCE/SERVICE DATE: September 19, 2019
DUE DATE: October 19, 2019
FINE AMOUNT: \$ 50,000.00
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 Asako Suzuki, Owner of Ice Gel USA/Gem Nail and School/Gel Nail and Accessories Hana/Gem Nail School/Gel Nail and Accessories Hana (Institution) located at 8305 Vickers Street, #112, San Diego, CA 92111 pursuant to Business and Professions Code section 125.9 and 149; California Education Code (CEC) section 94944; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violation(s) described below.

BACKGROUND

On July 13, 2016, the Bureau received a complaint alleging that the Institution is operating without Bureau approval.

The Bureau determined that the Institution is offering educational programs as a private postsecondary educational institution, without Bureau approval, based on evidence obtained through the course of the investigation. The Institution’s website establishes tuition costs ranging from \$30 to \$2500. However, the Institution confirmed that the tuition for the Professional Course is \$2500, in addition to the cost of kit materials, which brings the cost of tuition to over \$2500. This cost prohibits them from operating under Categories of Exempt Institutions- California Code of Regulations section 94874(f)- An institution that does not award degrees and that solely provides educational programs for total charges of \$2500 or less.

VIOLATION(S)

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5, CCR code) section(s) of law you are charged with violating.
1.	<p><u>Violation:</u></p> <p>CEC Section 94886. Approval to Operate Required <i>“Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter.”</i></p> <p>CEC Section 94858. Private Postsecondary Educational Institution <i>“Private postsecondary educational institution” means a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge.</i></p> <p>CEC Section 94817.5. Approved to Operate or Approved <i>“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.”</i></p> <p>CEC Section 94868. To Offer to the Public <i>“To offer to the public” means to advertise, publicize, solicit, or recruit.”</i></p> <p>CEC Section 94869. To Operate <i>“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.”</i></p> <p>On November 21, 2018, Bureau staff reviewed the Institution’s website and found that the Institution offers the following courses: Trial \$30; Self-Course \$500; Professional Course \$2500 + materials; Educator Course (TBD); One Day Art Class \$35; Accessories Class (TBD).</p> <p>On November 21, 2018, Bureau staff contacted the Institution and confirmed that the Professional Course is \$2500, in addition to the cost of materials. The cost of materials is based on what the student already has and what they need for the course.</p> <p>On June 26, 2017, Bureau staff obtained three (3) separate application documents from students in the program entitled “Application Form”. The Application Forms stated, “No refunds on Tuition or Material Fees.” The documentation was reviewed, and Bureau staff identified that one student was enrolled on February 26, 2016 and paid a total of \$3090.00 in fees, another student was enrolled on June 18, 2016 and paid a total of \$3148.00 in fees, and the third student was enrolled on December 1, 2016 and paid a total of \$898.66 in fees.</p> <p>Based on the Bureau’s investigation, the Institution is operating a private postsecondary educational institution and is not exempt from the provisions of the California Private Postsecondary Act of 2009.</p> <p><u>Order of Abatement:</u> The Bureau orders that the Institution cease to operate as a private postsecondary educational institution, unless the Institution qualifies for an exemption under CEC section 94874. The Institution must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media, including websites not identified here that are associated with the</p>

Institution, until an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone service numbers including but not limited to (619) 895-0459 that are associated with the Institution until an approval to operate is obtained from the Bureau. To comply with the Order of Abatement the Institution must submit a school closure plan to the Bureau pursuant to California Education Code section 94926. The institution must provide a roster of each student currently enrolled at the Institution. The roster must include the names of the students, their contact information (including phone number, email address, and physical address), the programs in which they are enrolled, the amount paid for the programs.

Assessment of Fine

The fine for this violation is **\$50,000.00**

TOTAL ADMINISTRATIVE FINE DUE: \$50,000.00

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 **\$50,000.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

COMPLIANCE WITH ORDER OF ABATEMENT

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

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one later.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **October 19, 2019**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **September 19, 2019**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **October 19, 2019**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

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

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

Gabriella Perez, 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 Gabriella Perez, Citation Analyst, at (916) 621-2593 or Gabriella.Perez@dca.ca.gov.

Christina Villanueva
Discipline Manager

Date

Enclosures

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