



CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Spitfire Flight School, Inc., Owner
Spitfire Aviation
300 Moffett Place
Santa Barbara CA 93117

INSTITUTION CODE: Unapproved

CITATION NUMBER: 1819177

CITATION ISSUANCE/SERVICE DATE: April 18, 2019

DUE DATE: May 18, 2019

FINE AMOUNT: \$ 5,000.00

ORDER OF ABATEMENT INCLUDED: Yes

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

CITATION

A Citation is hereby issued to Spitfire Flight School, Inc., Owner, of Spitfire Aviation (Institution) located at 300 Moffett Place, Santa Barbara CA 93117, 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 November 14, 2018, the Bureau received a complaint against the Institution for operating without Bureau approval.

The Bureau determined the Institution is conducting business as a private postsecondary educational institution based on evidence collected, including the Institution's website, www.spitfireaviationsb.com, Yelp search, and a telephone conversation with an Institution's representative. The Institution's representative stated that there were three payment options for flying lesson ranging from \$149 per hour to \$10,000, prepaid. Upon successful completion of the course, a certificate is awarded to the student.

The Institution is not operating as an exempt institution as two of their courses are prepaid in excess of the \$2500 maximum pursuant to Categories of Exempt Institutions CEC section 94874(j)- Flight instruction providers or programs that provide flight instruction pursuant to Federal Aviation Administration regulations does not require students to enter into written or oral contracts of

indebtedness and does not require or accept prepayment of instruction-related costs in excess of two thousand five hundred dollars (\$2,500).

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>Violation:</p> <p>CEC Section 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."</p> <p>CEC Section 94858. Private Postsecondary Educational Institution "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.</p> <p>CEC Section 94817.5. Approved to Operate or Approved "Approved to operate" or "approved" means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs."</p> <p>CEC Section 94868. To Offer to the Public "To offer to the public" means to advertise, publicize, solicit, or recruit."</p> <p>CEC Section 94869. To Operate "To operate" means to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided."</p> <p>On December 13, 2018, Bureau staff conducted research, and reviewed the Institution's website. The Secretary of State (SOS) Statement of Information describes the Institution as a "flight school." Franchise Tax Board (FTB) describes the Institution as an active, non-exempt entity. The Federal Aviation Administration (FAA) lists the Institution under "Pilot Schools". The Institution's website establishes that the school is open and offers flight instruction to the public.</p> <p>Bureau staff contacted the Institution and spoke with a representative who stated that the Institution has three program options: 1) \$149 per hour +\$80 instructor fee, 2) Prepaid \$5,000.00 for those who have already completed some hours but need to complete a few more for licensure, 3) Prepaid \$10,000 for a complete course of 70 hours of flight time from start to completion. This course is for those with no experience, no hours.</p> <p>Based on the Bureau's investigation, the Institution is operating a private postsecondary educational institution at 300 Moffett Place, Santa Barbara, CA 93117, and is not exempt from the provisions of the California Private Postsecondary Act of 2009. The Institution advertises flight programs with tuition fees ranging from \$149 per hour to \$10,000 prepaid, which prohibits the Institution from operating under CEC section 94858 and requires Bureau approval for operating a private postsecondary institution.</p>

Order of Abatement:

The Bureau orders that the Institution cease to operate as a private postsecondary educational institution, unless the Institution qualifies for an exemption under CEC section 94874. The Institution must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media, including, www.spitfireaviationsb.com and any other websites not identified here that are associated with the Institution, until an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone service numbers including but not limited to (805)967-4373, 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 \$5,000.00

TOTAL ADMINISTRATIVE FINE DUE: \$5,000.00

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 **\$5,000.00** 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 **May 18, 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 **April 18, 2019**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **May 18, 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:

Gurinder Sandhu/ Cheryl Lardizabal, 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, or Cheryl Lardizabal, Citation Analyst, at (916) 621-2591 or Cheryl.Lardizabal@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