

RESTRAINING ORDER

Served by Email (barknpark@sympatico.ca), fax (1-905-690-4290) and by courier

May 21, 2010

Howard Tyrrell operating as Bark N Park The Mobile Groomer
1258 Highway #6
Hamilton, ON L8N 2Z7

Attention: Howard Tyrrell

This is a **Restraining Order** issued under the authority of section 46 of the Private Career Colleges Act, 2005 (PCCA, 2005). As the Superintendent of Private Career Colleges, I HEREBY ORDER HOWARD TYRRELL OPERATING AS BARK N PARK THE MOBILE GROOMER TO STOP OPERATING IN CONTRAVENTION OF THE *PRIVATE CAREER COLLEGES ACT, 2005* (PCCA, 2005).

The detailed reasons supporting my order are set out in Schedule A, attached. In brief, you are:

- operating as an unregistered private career college, contrary to section 7 of the PCCA, 2005;
- offering vocational programs that are not approved by the Superintendent of Private Career Colleges, contrary to section 8(1) of the PCCA, 2005; and
- charging fees for an unregistered private career college and unapproved programs, contrary to section 9 of the PCCA, 2005.

You must provide written confirmation signed by a person with authority to bind the school, together with all available supporting evidence, that the steps outlined below have been taken. This written confirmation must be delivered **immediately** by registered mail or courier to my attention and confirm that you:

- have stopped operating as a private career college;
- have stopped providing unapproved vocational programs that require approval;
- have stopped charging fees for unapproved vocational programs that require approval;
- have provided the ministry with a list including the names and addresses of all current students;
- have provided full refunds to students who requested refunds in writing and were enrolled in unapproved vocational programs that require approval;

- are not holding, directly or indirectly, any monies owing to current, former, or prospective students of unapproved vocational programs that require approval;
- are holding student files to be available for the Superintendent's staff to review; and
- will not reopen as a private career college until such time, if any, as it has been registered.

Consequences of Failure to Comply with this Order

Failure to comply with this order may result in any or all of the following actions by the Superintendent:

1. Application for a court order from the Superior Court of Justice to you to comply;
2. The issuance of further Administrative Monetary Penalties.
3. Prosecution for offences under the Act. Upon conviction by a court of that offence, a corporation is subject to a fine of up to \$100,000; an individual, including an officer or director of a corporation who concurs in the commission of the offence, is subject to a fine of up to \$25,000, a prison term of up to one year, or both.

Obtaining a Copy of the PCCA, 2005

As noted above, the applicable legislation is the *Private Career Colleges Act, 2005* and the regulations made thereunder. The legislation and regulations are available at www.e-laws.gov.on.ca If you are unable to access any relevant information on e-laws, you may contact our offices at (416) 314-0500 to request that a copy of the legislation and regulations be sent to you.

Sincerely,

ORIGINAL SIGNED BY

Allan Scott
Superintendent
Private Career Colleges

Attachments: Schedule A – Detailed Reasons for Decision

Schedule A – Detailed Reasons for Decision

Contravention of section 7 of the PCCA, 2005 - Prohibition against operating a private career college

and

Contravention of section 8(1) of the PCCA, 2005 - Prohibition against providing vocational programs

On April 27, 2010 at 10:10 a.m., designates of the Superintendent of Private Career Colleges met with Howard Tyrrell, the owner of Bark N Park The Mobile Groomer at 1258 Highway #6, Hamilton, ON L8N 2Z7 to inquire about a grooming course he teaches. Mr. Tyrrell advised the Superintendent's designates that he trains his own people to work for him and that they pay him afterwards and that the fee comes out of their pay. Howard Tyrrell indicated that he did not know how many people he had trained in the past, but estimated it at about 50 people. He also said that the girl working with him is also training. In conversation with Howard Tyrrell, he referred to people he trained as groomers who work for him.

On May 13, 2010, designates of the Superintendent conducted a second interview with Howard Tyrrell to examine student/groomer files which Howard Tyrrell had refused to show to the designates during their visit on April 27, 2010.

During that meeting, Howard Tyrrell told the designates that he had only taught two groomers in the past two years. Neither of them paid a fee, however he pays 42% of the pet grooming fee charged to the customers to the groomer and that 10 to 15% of the groomers' pay is deducted from their paycheques until the \$4,000 training fee is paid. The course lasts approximately 320 hours.

The Superintendent's designates examined two current student/groomer files of Bark N Park The Mobile Groomer. Both files contained pet grooming contracts between Howard Tyrrell and the groomer dated March 19, 2010 and November 1, 2009 respectively. The second file also contained a letter signed by Howard Tyrrell and the groomer for the repayment of the grooming course. That letter stated that upon completion of the groomer's training the amount owing is \$5,500. The letter also specified that the amount owing will be deducted from each net pay at a rate of 15% per pay until the amount owing has been paid in full. The letter stated that if the groomer's employment was terminated before the amount owing was paid in full, the outstanding balance would be due immediately. Howard Tyrrell confirmed that he is still deducting 15% pay from both groomer's paycheques.

Subsequent to the interview with the Superintendent's designates, Howard Tyrrell provided copies of accounting reports showing the amounts paid towards the grooming courses for the two groomers. There are 18 deductions from paycheques from November 1, 2009 until May 17, 2010 for one of the groomers and two deductions from paycheques for the other groomer.

The grooming course requires the approval by the Superintendent of Private Career Colleges to be offered as a vocational program. Consequently, Howard Tyrrell operating as Bark N Park The Mobile Groomer is operating an unregistered private career college and offering an unapproved vocational program by deducting course

fees from his employees for a grooming course, in violation of sections 7 and 8 of the PCCA, 2005, respectively.

Contravention of section 9 of the PCCA, 2005 – Prohibition Against Charging Fee

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Based on this information, it is clear that Howard Tyrrell operating as Bark N Park The Mobile Groomer is charging or collecting a fee in respect of an unapproved program at an unregistered school, in violation of section 9 of the PCCA, 2005.

BACKGROUND:

In April 2010, the Ministry received information that Howard Tyrrell was teaching an illegal grooming course and had been teaching grooming for at least 10 years. The Ministry was advised of an arrangement whereby individuals were hired as employees by Mr. Tyrrell, who then trained them and deducted "training fees" from their paycheques, with training fees of either \$4,000 or \$5,000. Groomer training was described as taking place in a unit located on the back of a pickup truck. It was reported that Mr. Tyrrell had sued a number of previous employees for breach of contract when those employees had left his business before the full training fee was paid back in full.

Legal and Operating Entities

Bark N Park The Mobile Groomer is registered as the business name for the sole proprietorship operated by Howard Tyrrell. The business name was registered on August 28, 2007 and expires on August 27, 2012. The business registration is active and indicates that the business carries on animal grooming. The business address and registrant address are the same: 1258 Highway #6, Hamilton, ON L8N 2Z7.