

Ministry of Training,
Colleges and Universities
Student Support Branch
9th Floor, Mowat Block
900 Bay Street
Toronto ON M7A 1L2

Ministère de la Formation
et des Collèges et Universités
Direction du soutien aux étudiants
9^e étage, édifice Mowat
900, rue Bay
Toronto ON M7A 1L2



SERVED BY REGISTERED AND REGULAR MAIL

Friday, October 31, 2008

Bestech Academy Inc.
429 Dewitt Road, Units 3 and 4
Stoney Creek, Ontario
L8E 4C3

AND TO:

Bestech Academy Inc.
320 Vansickle Road, Units 6 and 7
St. Catharines, Ontario
L2R 6P7

Attention: June Ballegeer

Dear Madam:

Re: **Notice of Restraining Order under clause 46 (1) of the *Private Career Colleges Act, 2005* and Refusal to Register pursuant to clause 18 (1) of the *Private Career Colleges Act, 2005***

For the reasons set out in Schedule A, attached, I am of the view that Bestech Academy Inc. is not operating in compliance with the *Private Career Colleges Act 2005* and I am not satisfied that the applicant can be expected to be financially responsible in the operation of a private career college as required by s. 14 (1)(e) of the *Private Career Colleges Act 2005*.

Unregistered Campus

Pursuant to subsection 46(1) of the *Private Career Colleges Act, 2005*, I am directing you as the President of Bestech Academy Inc. to immediately cease and desist:

- Operating as an unregistered private career college at 429 Dewitt Road, Units 3 & 4, Stoney Creek; 320 Vansickle Road, Units # 6 and 7, St. Catharines and at any other location to which you may have moved;
- Offering non-approved vocational programs;
- Distributing any promotional program information or website advertisements, in whatever form, that use statements that mislead, or are likely to mislead, the public for the purpose of inducing a student or prospective student to enroll in a vocational program or to enter into a contract with a private career college.

I am also directing you, June Ballegeer, as the President of Bestech Academy Inc. to deliver to me **by registered mail or courier and by no later than Wednesday, November 20, 2008** a written confirmation:

- a) that Bestech Academy Inc. is no longer in operation;
- b) that Bestech Academy Inc. does not hold, directly or indirectly, any monies owing to current, former or prospective students with contracts with the school;

and setting out:

- c) the names and addresses of all current and former Bestech Academy Inc. students;
- d) the location of all Bestech Academy Inc. student files;
- e) a date and time that all files will be made available forthwith to Ministry staff for review; and
- f) an explanation for the offering of and delivery of vocational programs prior to approval by the Ministry.

Refuse to Register

Pursuant to clause 18(1) of the *Private Career Colleges Act, 2005*, I hereby give notice in writing that I am refusing to register Bestech Academy Inc. as a private career college.

Your application to register a Private Career College was received on October 9, 2008. The information contained therein and subsequent information received, as outlined in Schedule A, demonstrate your inability to be financially responsible in the operation of a private career college as required by s. 14 (1)(e) of the *Private Career Colleges Act 2005*.

If you disagree with the Superintendent's decision to refuse to register, you are entitled to appeal pursuant to subss. 20(3) and 19(3) of the Act. Information on the appeals process is set out in Schedule B attached.

Contraventions of the *Private Career Colleges Act, 2005*

Pursuant to subsection 46(1) of the *Private Career Colleges Act, 2005*, I am directing you to comply with the legislation as follows:

1. Bestech Academy Inc. will **immediately** remove all unapproved vocational programs and any false or misleading information from its advertising and website.
2. Bestech Academy Inc. will provide my office with confirmation and evidence of the removal **by November 20, 2008**.
3. Bestech Academy Inc. will **immediately** stop enrolling students in non-approved programs, and refund tuition to those currently enrolled.
4. Bestech Academy Inc. will provide my office with confirmation and evidence that it has ceased enrolling students in unapproved programs and refunded tuition to those currently enrolled **by November 20, 2008**.

Letters to the Superintendent must be sent by registered mail or courier to the address above.

Failure to Comply with the *Private Career Colleges Act, 2005*

Note that if fees are collected from students in an unapproved program, the students will have the right to a full refund of those fees regardless of whether your institution has delivered the training.

If you continue to operate an unregistered campus and offer unapproved vocational programs despite this Restraining Order, you will be operating in violation of sections 7 and 8 of the *Act* and may be subject to penalties pursuant to s. 48 of the *Act*. This may preclude subsequent registration under the *Act* on the grounds that you are carrying on activities in contravention of the *Act*.

Note that a corporation that is found guilty of an offence under section 48 of the *Act* is subject to a fine of up to \$100,000, and any officer or director of a corporation who concurs in the commission of such an offence is also guilty of an offence, and on conviction subject to a fine of up to \$25,000 or imprisonment for a term of up to one year, or both.

The legislation applicable to this Order is the *Private Career Colleges Act, 2005* and Ontario Regulation 415/06 made thereunder. The legislation and regulation is available at www.e-laws.gov.on.ca.

In the event that you are unable to access any relevant information on e-laws, you may contact Margot Devlin at 416-314-0497 to request that copies of the relevant legislation be sent to you. You may also contact Ms. Devlin if you have questions regarding this Order.

Sincerely,

Original signed by

Richard Jackson
Superintendent
Private Career Colleges

Attachments:

- Schedule A Reasons for Decision
 - A) Chronology of Events
 - B) Contravention of Superintendent's cease and desist Order of June 19, 2008
 - C) Lack of Financial Viability as required by s. 14(1)(e) of the *Private Career Colleges Act, 2005*
 - i) Bestech Academy Inc.
 - ii) President of Bestech- Applicant Profile
 - iii) Creditors
 - iv) Summary
- Schedule B Entitlement to Hearing by Licence Appeal Tribunal

Schedule “A” – Reasons for Decision

Facts in support of Restraining Order and Refusal to Register

A) Chronology of Events:

August 2006	June Ballegeer remitted a pre-screening form to the Ministry for Gas Technician and Oil Burner Technician programs.
November 2006	The Ministry wrote to June Ballegeer, advising that these were vocational programs and there was a requirement to register as a private career college.
	Ms. Ballegeer wrote again requesting an exemption for the Gas Technician and Oil Burner Technician programs.
April 4, 2007	The Ministry wrote to Ms. Ballegeer and advised that all Gas Technician and Oil Burner Technician programs require approval under the <i>Private Career Colleges Act, 2005</i> .
	Ms. Ballegeer responded that Gas Technician programs were exempt under the <i>Private Career Colleges Act, 2005</i> as the <i>Technical Standards and Safety Act (TSSA)</i> governs them.
April 30, 2007	Bestech Academy Inc. was incorporated. The President of the corporation is June Ballegeer and the Treasurer is [REDACTED].
July 9, 2007	<p>The Ministry wrote to Ms. Ballegeer and stated that “The exemption you referred to applies to programs which an Act of the Legislature other than the <i>Private Career Colleges Act, 2005</i> or an Act of Canada applies, if that Act contains protections similar to those in the <i>Private Career Colleges Act, 2005</i> relating to program quality and to student interests. The TSSA has been assessed and has been found not to meet this criterion.” The Ministry reiterated that Ms. Ballegeer was required to submit the Application for Registration to Operate a Private Career College.</p> <p>The Ministry advised that the Gas Technician and Oil Burner Technician Programs were found to provide students with the skills and knowledge required to obtain employment in a recognized vocation and thus required approval of the Superintendent of the <i>Private Career Colleges Act, 2005</i>.</p> <p>Ms. Ballegeer, President of Bestech Academy Inc., was advised that until such time as Bestech Academy Inc. was registered and its programs were approved, it is a violation under Sections 7, 8 and 11 of the <i>Private Career Colleges Act, 2005</i> to deliver or advertise the delivery of vocational program(s). An institution can not charge or collect a fee in relation to a vocational program until the registration and</p>

	<p>program approval process is complete under Section 9 of the Act.</p> <p>There was no response to the July 9, 2007 communication from the Ministry. No application for registration was received.</p>
March 25, 2008	<p>Ministry staff wrote to Bestech Academy Inc. following up on the communications of November 16, 2006, April 4, 2007 and July 9, 2007.</p> <p>Bestech Academy was requested to advise the Ministry as to whether or not an application for registration was to be submitted.</p>
April 8, 2008	<p>Bestech sent a letter via fax dated April 7, 2008 received April 8, 2008, stating that they intended to submit a full application by end of week (April 11, 2008).</p> <p>The Ministry did not receive any application by that date.</p>
June 4, 2008	<p>As at this date, Bestech Academy Inc. continued to advertise their vocational training at two locations in contravention of s. 7 and s. 8 of the <i>Private Career Colleges Act, 2005</i>.</p>
June 19, 2008	<p>The Superintendent of Private Career Colleges issued a Restraining Order pursuant to clause 46(1) of the Private Career Colleges Act, 2005 against Bestech Academy Inc. June Ballegeer, the President of Bestech Academy Inc. was directed to cease and desist operating as an unregistered private career college and to cease and desist offering vocational programs.</p> <p>Bestech Academy Inc. was required to respond in writing by July 7, 2008 that they were in compliance with the Order and to report on a number of other matters related to students and their files. In addition a deadline of July 31, 2008 was given for submitting an application to register and operate as a private career college.</p> <p>No response was received by July 7, 2008. No application was submitted by July 31, 2008.</p>
August 1, 2008	<p>On August 1, 2008, the Ministry received a letter dated July 7, 2008 from Ms. Ballegeer.</p> <p>Ms. Ballegeer stated that all forms and applications will be sent to the Ministry no later than August 31, 2008.</p>
August 20, 2008	<p>Ministry staff attended at Bestech Academy to conduct a site inspection. Ms. Ballegeer advised Ministry staff that she would submit the completed application by August 22, 2008.</p>

	<p>The location at Stoney Creek was open and operating. Ms. Ballegeer told Ministry staff that the St. Catharines location was closed and no longer enrolling students.</p> <p>Ms. Ballegeer stated that she would not enrol students in either location and would cease advertising her programs until her institution was registered.</p> <p>Ms. Ballegeer told Ministry staff that she was having challenges obtaining financial security.</p> <p>No application was received.</p>
August 26, 2008	Second site visit by Ministry staff. On this date the doors to the St. Catharines and Stoney Creek locations were closed, but the signage was still up. Ministry staff spoke to the neighbouring businesses. In Stoney Creek, the neighbours stated that Bestech Academy Inc. staff had been there in the morning and in St. Catharines, Ministry staff were advised by the neighbours that students had been entering the facility as recently as Monday, August 25 th 2008.
August 27, 2008	Email from Ms. Ballegeer to Ministry staff stating that she will be sending in her application by end of day.
August 29, 2008	Application received by fax.
September 3, 2008	Application received by mail.
September 18, 2008	Ministry letter issued to Ms. Ballegeer outlining the deficiencies in the application and setting out the requirements to fully complete the application. A deadline of October 3, 2008 was set.
September 24, 2008	Ms. Ballegeer sent a fax to the Ministry authorizing the release of information to ██████, in regard to the requirements of the PCCA, 2005.
September 24, 2008	By email, Ministry staff questioned the reason for this authorization.
September 24, 2008	June Ballegeer stated in an email that ██████ "is a lawyer who we have sought legal advice based on current situation [sic]." She confirmed the receipt of the Ministry letter with deadline of October 3, 2008.
September 24, 2008	By email, Ministry staff questioned relationship with ██████ as he had not identified himself as Bestech's legal counsel.
September 24, 2008	By email, June Ballegeer stated that "He is not my legal counsel."
September 24, 2008	By email June Ballegeer asked if she could send the current financial statements from her accountant. Ministry staff responded by email that current financial statements would be acceptable to the Finance Unit as long as Revenue was

	reported as Vocational and Non-Vocational Tuition Revenue and that the accountant was a licensed public accountant.
October 14, 2008	██████████, landlord of June Ballegeer and Bestech Academy Inc. at 429 Dewitt Road, Unit 3 & 4, Stoney Creek, called the Ministry. Ms. Ballegeer had authorized the Ministry to speak to ██████████ about the requirements under the PCCA, 2005. ██████████ wanted a timeline for the application as he stated that June and Bestech were in arrears of their rent. Ministry staff could not provide a timeline but he would find a general timeline on the Ministry website.
October 27, 2008	Ministry staff received an email from an instructor at Bestech. He stated that he had invested \$85,000 into Bestech to assist with obtaining TSSA accreditation and to pay off debts of the school. Ms. Ballegeer told him that Bestech was supposed to have heard if they qualified for registration by October 3, 2008. The instructor stated that Mohawk College was now offering the Gas Tech program for free through unemployment so there were few people who will pay tuition. According to the instructor, the landlord was changing the locks at the end of the week due to back rent owing. The money invested was a large part of his retirement fund.

B) Contravention of Superintendent's cease and desist Order of June 19, 2008

The Restraining Order of June 19, 2008 had directed Bestech Academy Inc. to cease and desist in

- the operation of a private career college;
- the offering and delivery of vocational programs;
- distributing any promotional information or website advertisements that use statements for the purpose of inducing a student or prospective student to enrol in a vocational program.

On August 20, 2008, Ministry staff attended at 429 Dewitt Road, Units 3 & 4 and found Bestech Academy Inc. operating in violation of the Restraining Order dated June 19, 2008. Ministry staff found in a review of school records that students had been enrolled by Bestech Academy Inc. on July 12, 2008, more than three weeks after the issuance of the Superintendent's Order. Furthermore, the school was continuing in operation when Ministry staff arrived.

Bestech Academy Inc. continues to date to advertise the delivery of vocational programs at their school.

The school's website www.bestechacademy.ca remains operational. Vocational programs offered on the website are: Gas Technician G1, Gas Technician G2, Gas Technician G3, Oil Burner Technician OBT3, Oil Burner Technician OBT2, Oil Burner Technician OBT1, Refrigeration & Air Conditioning System Mechanic, Heating Technologist Program, Industrial Maintenance Technician and Heating & Air Conditioning Pr-Apprenticeship Program.

Bestech Academy Inc. has contravened the Superintendent's Order by continuing to operate, enrol students, offer and deliver vocational programs and advertise the delivery of vocational programs.

C) Lack of Financial Viability as required by s. 14(1)(e) of the *Private Career Colleges Act, 2005*

i) Bestech Academy Inc.

The Bestech Academy Inc. application does not provide evidence of financial viability as required to operate a private career college.

No evidence of financial security was received with the Bestech Academy Inc. application as required.

On August 20, 2008, Ministry staff obtained a list of students who have attended Bestech Academy Inc. The list identifies 174 students whose start dates spanned the period October 2006 to July 2008. The schedule shows that 102 (59%) of the students have paid in full for their programs. Despite the substantial number of students and tuition revenue, the financial statements submitted with the Bestech Academy Inc application to register show a net loss for the fiscal year ended December 31, 2007.

On September 24, 2008, Ministry staff instructed Ms. Ballegeer to provide financial statements prepared by a licensed public accountant. Despite this instruction, the financial statements received were not prepared by a licensed public accountant. The Financial Statements for the fiscal year ended December 31, 2007 document the Tuition/ Training Revenue of \$267,869.04; however Bestech Academy Inc. suffered a loss of \$54, 234.67. Current liabilities were recorded as \$93,236.49. Cash and current assets total \$44,975.40 but this total includes \$32,298.29 in accounts receivable which may or may not be collected.

ii) President of Bestech- Applicant Profile

On the first applicant profile, dated July 30, 2008 and filed by the President of Bestech, June Ballegeer, she answered "no" to the question "is he/she a party to bankruptcy proceedings?" On September 19, 2008, Ministry staff questioned this response due to information received. Ms. Ballegeer re-filed her applicant profile on September 28, 2008 and answered that she was a party to a bankruptcy proceeding. She included information stating the following "In

September 2006 I declared personal bankruptcy based on the situation. I have not been discharged at this point and have enclosed particulars concerning this.”

Contrary to her statement, no particulars were enclosed; however, according to Ms. Ballegeer, she remains undischarged. A copy of a letter dated May 26, 2008, from the Trustee in Bankruptcy of the Estate of June Mary Ballegeer which was provided to us by [REDACTED], a creditor of Ms. Ballegeer, states that:

“We advise that we have made two demands for the records of the company, Bestech Academy, pursuant to the Order of Conditional Discharge for the above bankrupt. In addition, we have issued demand to the company itself and the other Director of record with no success. “

It appears that Ms. Ballegeer has been non-compliant in regard to requirements made by her bankruptcy trustee and that she has failed to meet the conditions in the Order of Conditional Discharge.

iii) Creditors:

In August 2008, [REDACTED] of Ms. Ballegeer and current creditor in Ms. Ballegeer’s bankruptcy, provided us with a copy of a promissory note for \$10,000.00 from Ms. Ballegeer to him, which has not been repaid.

On August 20th, 2008, Ms. Ballegeer advised Ministry staff that she was having challenges obtaining financial security for the registration of her private career college.

On September 24, 2008, Ms. Ballegeer referred her landlord, [REDACTED], to Ministry staff and gave authorization for Ministry staff to speak to her landlord. Initially Ms. Ballegeer stated that [REDACTED] is a lawyer from whom she sought legal advice. When Ministry staff indicated that [REDACTED] had not identified himself as her counsel, Ms. Ballegeer stated that “he is not my legal counsel”.

On October 14, 2008 Ministry staff spoke with [REDACTED], a representative for Ms. Ballegeer’s landlord, [REDACTED], at 429 Dewitt Road, Unit 3 & 4, who indicated that Bestech Academy Inc. was in arrears in the rent payments. He told Ministry staff that he wanted to know how long the registration process would take as he had to determine how much longer to allow the school to remain in the premises. Ministry staff advised him that was his business decision.

On October 27, 2008 [REDACTED], an instructor at Bestech Academy Inc. contacted Ministry staff to enquire as to the progress in registration of Bestech Academy Inc. He indicated that he had invested \$85,000 of his retirement fund

into Bestech Academy Inc. to obtain the TSSA accreditation and to pay off debts of the school. He is not a shareholder of the corporation.

██████████ also stated that Bestech Academy has until the end of the week (October 31, 2008) as the landlord is changing the locks then for back rent owing.

iv) Summary:

There is no evidence of financial viability as summarized below:

1. No financial security was arranged or submitted with the registration application for Bestech Academy Inc. The President, June Ballegeer, advised Ministry staff that it would be a challenge to obtain financial security;
2. The financial statements submitted with the Bestech Academy Inc. application revealed a net loss and insufficient current assets to meet the current liabilities. The President, June Ballegeer, is an undischarged bankrupt.
3. The Trustee reported Ms. Ballegeer's failure to comply with the conditions attached to the Conditional Discharge of Bankruptcy and Ms. Ballegeer stated in correspondence with the Ministry that she remains an undischarged bankrupt.
4. Bestech Academy Inc.'s landlord reported that there is rent owing and he was about to decide whether or not to continue their lease.
5. An instructor with Bestech Academy Inc. invested a "large part" of his retirement fund in Bestech Academy Inc. and expressed concern about the investment and stated that the locks would be changed on the school effective October 31, 2008.

SCHEDULE "B"

ENTITLEMENT TO HEARING BY LICENCE APPEAL TRIBUNAL:

If **Bestech Academy Inc.** disagrees with the Superintendent's decision to refuse to register it as a private career college pursuant to the *Private Career Colleges Act, 2005*, **Bestech Academy Inc.** is entitled to a hearing by the Licence Appeal Tribunal (the "Tribunal") if it mails or delivers to both the Superintendent of Private Career Colleges and the Tribunal a notice in writing, requesting such a hearing.

Such notice must be delivered, **by registered mail or courier**, to the Superintendent and to the Tribunal **by November 20, 2008**.

If **Bestech Academy Inc.** does not require a hearing by the Tribunal as set out above, the decision to refuse the school's registration application will as of **November 20, 2008** be final.

If **Bestech Academy Inc.** does choose to request a hearing by the Tribunal, the notice to the Tribunal should be addressed to:

Licence Appeal Tribunal
CIBC Building, 12th Floor
1 St. Clair Avenue West
Toronto, ON M4V 1K6

Service of the required notice on the Superintendent should be sent to:

Superintendent of Private Career Colleges
Ministry of Training, Colleges and Universities
9th Floor, Mowat Block
900 Bay Street
Toronto, ON M7A 1L2

Please note that the Tribunal has its own forms for filing applications with the Tribunal. You may contact the Tribunal directly at 416-314-4260 or 1-800-255-2214 for information on the Tribunal and its application forms, or obtain such information from the Tribunal's website at: www.lat.gov.on.ca.