

Ministry of Training,
Colleges and Universities

Office of the Superintendent

Private Career Colleges Branch
9th Floor, Mowat Block
900 Bay Street
Toronto ON M7A 1L2

Ministère de la Formation
et des Collèges et Universités

Bureau du Surintendant

Direction des collèges
privés d'enseignement professionnel
9^e étage, édifice Mowat
900, rue Bay
Toronto ON M7A 1L2



RESTRAINING ORDER

April 1, 2011

Esteban Alfredo Jacome
Bonaparte Enterprises Inc.
o/a Blush! School of Cosmetics
70 Hanlan Road, Unit 1
Woodbridge, Ontario
Canada L4L 3P6

Dear Esteban Alfredo Jacome:

This is a Restraining Order issued under s. 46(1) of the *Private Career Colleges Act, 2005* ("Act"). As the Superintendent of Private Career Colleges, I believe that Bonaparte Enterprises Inc. o/a Blush! School of Cosmetics ("School") has contravened the Act and/or regulations, and I order the School to stop contravening the following provisions of the Act and/or regulations:

- Advertising an unregistered private career college and advertising unapproved vocational programs, contrary to subsections 11(1) and (2) of the Act, respectively;
- Operating as an unregistered private career college, contrary to section 7 of that Act;
- Offering vocational programs that are not approved by the Superintendent of Private Career Colleges, contrary to section 8 of the Act; and
- Charging fees for an unapproved vocational program contrary to section 9 of the Act.

Detailed reasons in support of my decision to issue this order are found in Schedule "A", attached. Failure to comply with this order may result in any or all of the following, further enforcement actions:

- Application for an order from the Superior Court of Justice;
- The issuance of further Administrative Monetary Penalties; and/or

- Prosecution for offences under the Act. Upon conviction by a court,
 - A corporation is subject to a fine of up to \$250,000;
 - An individual is subject to a fine of up to \$100,000, a prison term of up to one year, or both; and
 - 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.

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 by April 7, 2011 by registered mail or courier to my attention and confirm that the School:

- Has stopped advertising an unregistered private career college and unapproved vocational programs that require approval;
- Has stopped holding itself out as an operator of a private career college;
- Has stopped providing unapproved vocational programs that require approval; and
- Has stopped charging fees for unapproved vocational programs that require approval.

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.

Pursuant to sections 49(2) and 49(6) of the Act, this order is published on the Ministry of Training, Colleges and Universities' website.

Kindly govern yourself accordingly,

ORIGINAL SIGNED BY

Allan Scott
Superintendent of Private Career Colleges

Schedule "A"

Detailed Reasons and Findings

The Superintendent has issued this order based on the following findings and supporting facts and evidence:

Contravention of section 11 of the Act – Restrictions on Advertising and Soliciting

On March 17, 2011, a Designate of the Superintendent ("Designate") reviewed a website belonging to the School and found it to be advertising a Makeup Techniques Level 1 course. The part-time version of the course is described as being delivered on Monday and Tuesday, 6pm-9pm for 13 weeks, or 78 hours, for a cost of \$3799.85.

MAKE UP TECHNIQUES LEVEL I \$3799.85 all included

MENTION THIS AD SAVE \$100.00 OFF **MARCH/APRIL CLASS**

Enhanced Bridal Make Up Course

Make up Techniques Level I is a great beginner course. You will have the opportunity to learn all the basics enabling you to do Day, Evening, BRIDAL and Glamour Make Up.

**Full-Time: 5 Weeks
Monday and Thursday
9:00 a.m. to 3:00 p.m.**

**Part-time: 13 Weeks
Monday and Tuesday
6:00 p.m. to 9:00 p.m.**

Introduction to Make Up
Face, Eyes, Nose Shape and Colouring
Colour Theory
Bacteriology, Hygiene
Products Used in Make up
Undertone and Colour Corrections
Contouring Corrective Make up
Eyebrow Shaping and Grooming
Working with False Lashes
Make up Application Steps
Make up Looks (Day, Evening, Glamour, Bridal)
Bridal Business class
Business Cards
Face Charts
Exam, projects, quizzes



Certificate course as mandated by Private Career College

Between March 17, 2011 and March 28, 2011 a Designate exchanged e-mails with Gayle Bonaparte at info@blushschoolofcosmetics.ca regarding the Makeup Techniques Level 1 course. Within these e-mails, Ms. Bonaparte describes the course as being delivered on Monday and Tuesday, 6pm-9pm for 12 weeks (72

hours), at a cost of \$3,666,85. She also states that the course includes several evaluation methods and that 85% of the course is hands-on training.

The Makeup Techniques Level 1 course corresponds to National Occupational Classification (NOC) code 6482 Estheticians, Electrologists and Related Occupations. Based on the evidence gathered the Makeup Techniques Level 1 course offered by the School fits the definition of a vocational program requiring approval of the Superintendent according to the Act. Since this program is not approved, advertising of same is prohibited in accordance with Section 11 of the Act.

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

Between March 17, 2011 and March 28, 2011 a Designate exchanged e-mails with Gayle Bonaparte at info@blushschoolofcosmetics.ca regarding the Makeup Techniques Level 1 course. In a March 18, 2011 e-mail, Ms. Bonaparte stated that there was only one spot available for the March 28, 2011 course, and advised that enrolment in the course requires a \$300 deposit, with the balance of the tuition due by the first day of class. Subsequently, in a March 28, 2011 e-mail she advised that the class is full but that the School intends to offer another session in June.

By offering or providing the Makeup Techniques Level 1 course, the School has acted in contravention of section 8 of the Act.

Contravention of section 9 of the PCCA, 2005 – Charging Fees for Unregistered Private Career College and Unapproved Programs

Between March 17, 2011 and March 28, 2011 a Designate exchanged e-mails with Gayle Bonaparte at info@blushschoolofcosmetics.ca regarding the Makeup Techniques Level 1 course. In a March 18, 2011 e-mail, Ms. Bonaparte stated that there was only one spot available for the March 28, 2011 course and advised that enrolment in the course requires a \$300 deposit, with the balance of the tuition due by the first day of class. Subsequently, in a March 28, 2011 e-mail she advised that the class is full but that the School intends to offer another session in June.

The Designate came to the reasonable belief that the School is charging fees for its Makeup Techniques Level 1 course, an unapproved vocational program, in contravention of section 9 of the Act based on the following:

- Ms. Bonaparte advised that a \$300 deposit is required for enrolment
- Ms. Bonaparte advised that the entire tuition is due on the first day of class
- Ms. Bonaparte advised that the class is full
- The program began on March 28, 2011

The School must, therefore, have charged fees for its Makeup Techniques Level 1 course in contravention of section 9 of the Act.

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

Under section 7(2) of the Act, no person shall hold themselves out as the operator of a private career college unless the person is registered. Under the Act, if an institution provides one or more vocational programs to students for a fee they are by definition a private career college.

The following evidence has formed the basis for the Designate's reasonable belief that the School is holding itself out as the operator of a private career college:

- the evidence offered in the previous section clearly indicates that the School is advertising and offering vocational programs for a fee;
- In e-mails exchanged with a Designate between March 17, 2011 and March 28, 2011, a representative of the School stated that the School is offering a vocational program, and provided a description of same. The signature used by the School's representative listed the School's address, phone number and website.
- On ONBIS, Bonaparte Enterprises Inc. is a registered corporation with an address of 70 Hanlan Road, Unit 1 Woodbridge, Ontario. The Director for the corporation is listed as Esteban Alfredo Jacome; and
- The website <http://blushschoolofcosmetics.ca> provides the School's address, as well as a contact phone number and e-mail address.

Therefore, the School has advertised; offered or provided; and charged a fee for a vocational program, and has thereby held itself out to be a Private Career College in contravention of section 7 of the Act.

Previous Efforts to Obtain Compliance Had No Effect

In 2009, Designates had extensive contact with the School advising them of the requirements of the Act and the existence of the pre-screening process.

- On May 6, 2009: a Designate sent an e-mail to the School advising, among other things, that Make-Up Artistry is a vocational program requiring approval;
- May 8, 2009: a Designate provided the School with a copy of Advertising Guidelines to be followed in order to comply with the Act;
- July 8, 2009: a Designate advised the School that it may offer courses that cost less than \$1,000, and that offering a certificate as a credential (as opposed to a diploma) does not affect the requirement to register. The Designate specifically stated that the School's Makeup Techniques program requires approval;

- July 22, 2009: a Designate sent a letter to the School advising that several of its make up programs require approval, including Make up Artistry, Make-up Techniques level 1, and Make-up Techniques Level 2. The Designate also advised that as per the Act, the School must not advertise or offer these programs.
- November 26, 2009: A Designate sent a letter to the School in response to a pre-screening application. This letter advised that the School's Make Up Artistry program requires approval, and that the course must not be advertised or offered until that approval is obtained.
- December 21, 2009: A Designate sent an e-mail to the School advising that it must stop advertising its Make-up Technique course as it requires approval.

The School has not submitted any pre-screening applications for a course related to make up and been advised that it does not require approval. It has also, as seen above, been advised that issuing a certificate as the credential for a course does not affect the School's requirement to have that program approved.

Nonetheless, the homepage of the School's website <http://www.blushschoolofcosmetics.ca/>, states that the School's courses are "...perfectly allowable within the Private Career College's mandate..." Further, the page pertaining to the School's Make Up Techniques Level 1 course contains the statement "Certificate course as mandated by Private Career College". Both of these statements are likely to lead a member of the public to believe that the School has confirmed that its programs are exempt from the requirements of the Act, but the statements are untrue. **The School, therefore, has not only failed to bring itself into compliance after receiving several warnings, but has published claims that may cause prospective students to mistakenly believe that these programs are offered in compliance with the Act, contrary to the findings made.**

Previous Penalties Upheld

On April 19, 2010, the School was issued a Notice of Contravention for \$1,000 per day for its "Failure to comply with an order of the Superintendent made under s. 46".

The School requested a review of the Notice of Contravention and the penalty was upheld. The School complied on July 2, 2010. The final penalty was \$8,000. The particulars of this Notice of Contravention and Review Decision were published online at

<http://www.tcu.gov.on.ca/eng/general/letters/BlushSchoolofCosmeticsPenalty.pdf>

Previous Restraining Order Issued

On April 19, 2010, the School was issued a Restraining Order for "Holding funds paid by a former student who was enrolled in an unapproved vocational program

which required approval, in contravention of section 25(1) of the Private Career Colleges Act, 2005, O.Reg 415/06.”

This Restraining Order was published online at

http://www.tcu.gov.on.ca/eng/general/letters/BlushSchoolCosmeticsRestrainingOrder_2010.pdf

Legal and Operating Entities

According to an ONBIS search, Bonaparte Enterprises Inc. was registered as a corporation in Ontario on January 21, 2005. The corporation registered the business name “Blush! School of Cosmetics” on October 11, 2005. Esteban Alfredo Jacome is currently listed as the Director.