

RESTRAINING ORDER

Served by e-mail to shiatsuinfo@livingearthschool.com, and courier

March 2, 2010

Leny Carbone
o/a Living Earth Shiatsu School
982 Bathurst Street
Toronto, Ontario, M5R 3G6

Attention: Leny Carbone

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 Leny Carbone 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:

- advertising an unregistered private career college and advertising unapproved vocational programs, contrary to sections 11(1) and (2) of the PCCA, 2005, respectively;
- 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 of the PCCA, 2005; and

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 advertising an unregistered Private Career College and unapproved vocational programs that require approval.
- 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 refunds to students who 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 the offence of failure to comply. 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.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

OPERATION "HANDS ON"

Shiatsu therapy involves the systematic application of manual pressure to the body in order to assess and treat a variety of conditions. Literally translated, the Japanese word shiatsu means "finger pressure." The College of Massage Therapists of Ontario considers Shiatsu Massage to be one of the modalities within the scope of practice as defined by section 3 of the Massage Therapy Act, 1991 reads as follows:

Scope of practice

3. The practice of massage therapy is the assessment of the soft tissue and joints of the body and the treatment and prevention of physical dysfunction and pain of the soft tissues and joints by manipulation to develop, maintain, rehabilitate or augment physical function, or relieve pain.

The necessity for program approval for shiatsu massage programs is specifically addressed in section 7 (3) of Ontario Regulation 415/06 made under the Private Career Colleges Act, 2005 which provides as follows:

"Despite item 2 in the Table to subsection (2), a vocational program in the vocation of shiatsu massage is prescribed as a vocational program for the purposes of the Act and the regulations."

In response to a concern about unapproved shiatsu massage programs, and their potential impact on public safety, Operation "Hands On" was launched. Its purpose was to identify unregistered shiatsu massage schools offering unapproved vocational programs that require approval under the Private Career Colleges Act, 2005 and to take the necessary enforcement action against them. This institution was identified as part of this operation.

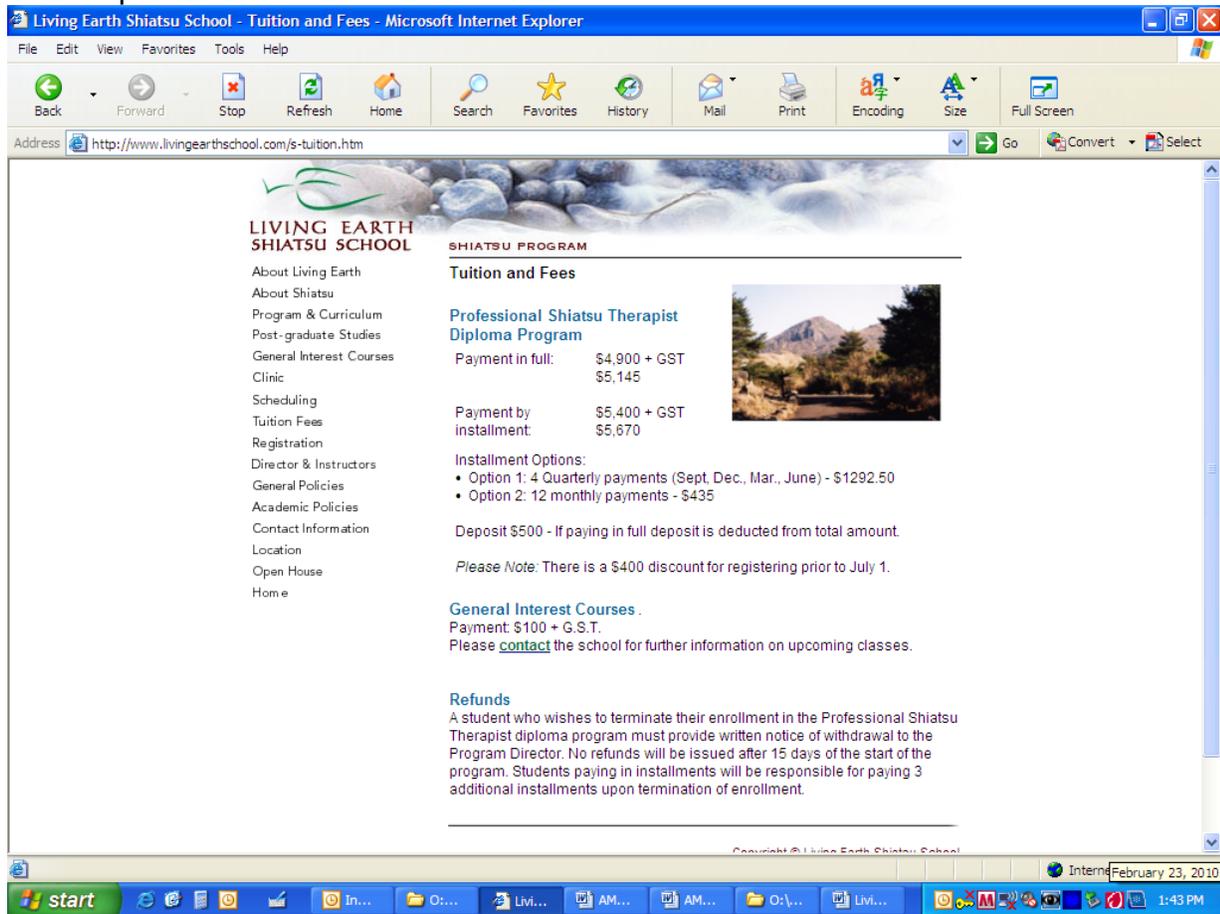
Contravention of section 11 of the PCCA, 2005 – Advertising Unregistered Private Career College and Unapproved Programs

On February 11, 2010, the website belonging to Living Earth Shiatsu School, <http://www.livingearthschool.com/>, was reviewed by Ministry staff who found it advertising a 500 hour Professional Shiatsu Therapist Diploma program for \$5,670.

This course corresponds to National Occupational Classification (NOC) code 3232 – Midwives and Practitioners of Natural Healing. The vocation of shiatsu massage is specifically referenced in law as being a non-exempt program that requires approval. O.Reg. 415/06, s. 7(3) provides as follows: "Despite item 2 in the Table to subsection (2), a vocational program in the vocation of shiatsu massage is prescribed as a vocational program for the purposes of the Act and the regulations."

The website bears the school's name, states that a Professional Shiatsu Therapist Diploma program is being offered, and provides an address, 982 Bathurst Street Toronto, Ontario, M5R 3G6, phone number, and e-mail address for the school, as well as copy of the registration form.

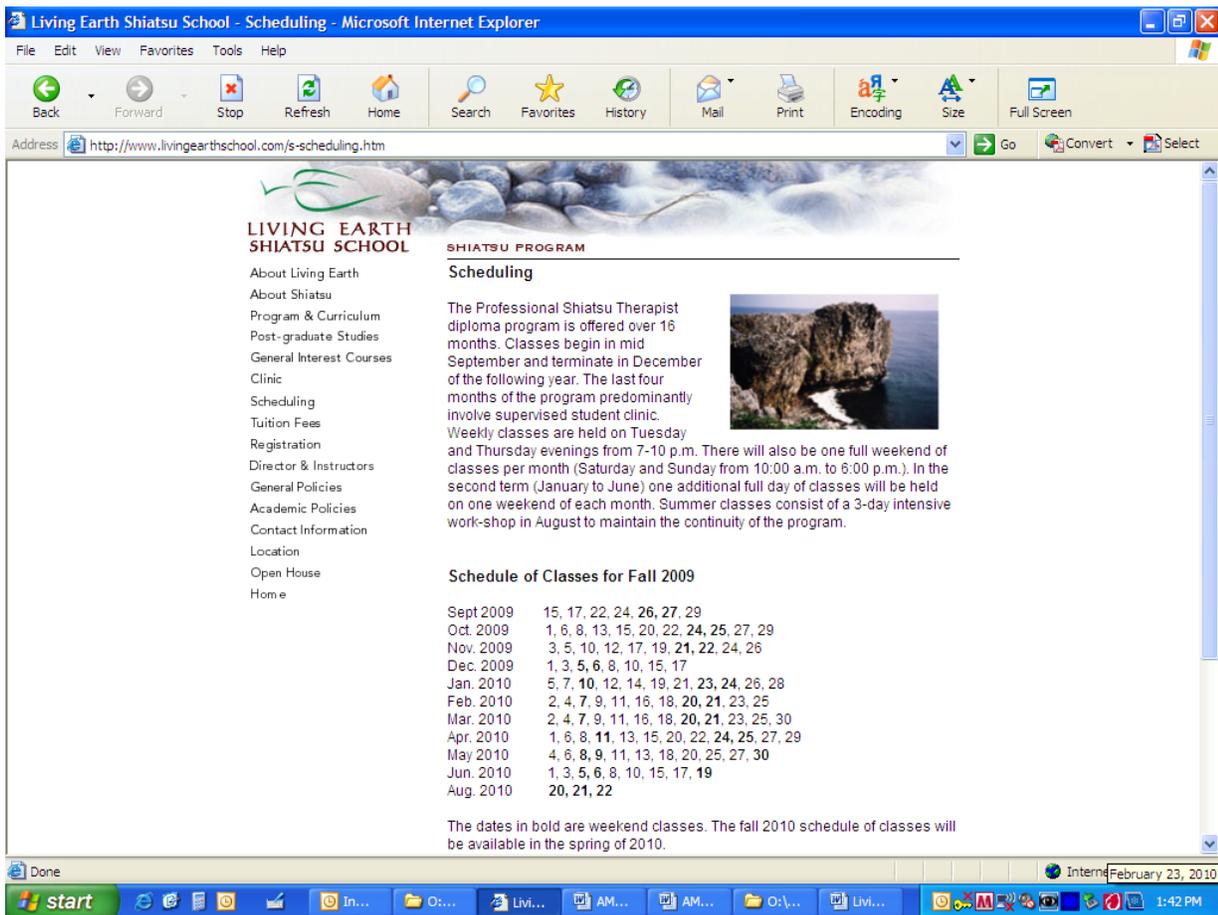
Since this college is not registered, and this program is not approved, advertising of them is prohibited in accordance with section 11 as noted above.



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

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

On February 11, 2010, the website belonging to Living Earth Shiatsu School, <http://www.livingearthschool.com/>, was reviewed by Ministry staff who found it advertising a 500 hour Professional Shiatsu Therapist Diploma program for \$5,670. The website also hosts a schedule for the Fall 2009 program, which indicates that courses began on September 15, 2009, and will continue until August 22, 2010.



BACKGROUND:

On February 10, 2010, the Ministry found information regarding the Living Earth Shiatsu School and consequently launched an investigation.

Legal and Operating Entities

On February 23, 2010, Ministry staff conducted an ONBIS search on Living Earth Shiatsu school, and found that it is a sole proprietorship registered to Leny Carbone as on December 22, 2004. Its registration expired on December 21, 2009.