

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

**Ministère de la Formation
et des Collèges et Universités**
Direction des collèges
privés d'enseignement professionnel
9^e étage, édifice Mowat
900, rue Bay
Toronto ON M7A 1L2



RESTRAINING ORDER

Served by email(ellen@toni.ca), by Fax(519-740-6130) and by Courier

January 13, 2011

Ellen Flood
Ontario Nail Institute
312-3 Marsland Drive
Waterloo, ON N2J 3Z1

Dear Ellen Flood:

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 The Ontario Nail Institute ("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:

- 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
- Advertising an unregistered private career college and advertising unapproved vocational programs, contrary to subsections 11(1) and (2) of the Act, respectively;

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 **January 21, 2011** 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 enrolling students into unapproved vocational programs that require approval;
- Have provided the ministry with a list including the names and addresses of all current and former 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.

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
Private Career Colleges

Attachments: Schedule A – Detailed Reasons for Decision

Schedule A – Detailed Reasons for Decision

Contravention of s. 11 – Restrictions on advertising and soliciting

On November 1, 2010, a Superintendent's Designate ("Designate") reviewed the website www.toni.ca, maintained by The Ontario Nail Institute. This website advertises the current calendar of classes, the school's registration form and other programs and workshops offered by the school. Although the school does not advertise the full cost of the programs "Complete Nail Technology" and "Complete Aesthetics" on its website, it does advertise the cost for each module that makes up both programs. The website also states the "Complete Nail Technology" program is 125 hours in duration, and "Complete Aesthetics" is 170 hours.

Welcome to TONI - Raising the Nail Technician's standard through EDUCATION, PRODUCTS and SERVICES

What's New? **About TONI** **Education** **Products** **TONi Deals** **Photo Gallery** **Contact Us**

- Home
- Welcome
- Student testimonials
- Current calendar of classes
- Our Newsletter
- Technical tips and hints
- Informative Links

Beginner Programs:

- Natural Nail Care
- Nail Enhancements
- Waxing
- Skin Care
- Classroom Photos

Advanced Workshops:

- TONi Introduction to Nail Art
- Advanced Sculpting (Gel or Acrylic)
- Coloured Gel
- Introduction to Coloured Acrylic
- Advanced Fill Techniques
- Gel Toes
- Machine Pedicure
- The Speed Challenge
- Airbrush Tanning
- TONi Educators Program

Complete Nail Technology

THIS PROGRAM IS DESIGNED TO TEACH ALL THE NAIL BASICS, NATURAL AND ARTIFICIAL.

YOU WILL BECOME A NATURAL NAIL CARE SPECIALIST AS WELL AS AN ENHANCEMENT TECHNICIAN.

YOU WILL GAIN THE EXPERTISE TO CREATE NEW NAILS, LEARN THE FUNDAMENTALS OF NAIL FILLS AND MAINTENANCE, ALONG WITH REPAIRS AND TROUBLESHOOTING.

FROM NAIL ANATOMY TO APPLICATION TO FINISHING TOUCHES, YOU WILL LEARN THE ESSENTIALS FROM THE BEST IN THE INDUSTRY.

AT TONI YOU WILL BE INTRODUCED TO THE MOST CURRENT NAIL TECHNOLOGY AND PRODUCTS AVAILABLE ON THE MARKET.

TRAINING WILL INCLUDE FULL SYSTEM KITS AS WELL AS A TEXTBOOK THAT PROVIDES ILLUSTRATIONS TO ACCOMPANY YOUR HANDS-ON TRAINING.

YOU WILL BE REQUIRED TO WRITE A MID-TERM EXAM ON NATURAL NAIL CARE AND PERFORM A MANICURE AND PEDICURE FOR GRADING PART WAY THROUGH THE COURSE.

AFTER COMPLETING ALL SCHEDULED CLASSES, YOU WILL HAVE A FINAL WRITTEN EXAM.

WITHIN SIX WEEKS YOU WILL BE REQUIRED TO DO A FINAL PRACTICAL EXAMINATION DEMONSTRATING NAIL ENHANCEMENT SKILLS LEARNED THROUGHOUT THE PROGRAM.

UPON SUCCESSFUL COMPLETION YOU WILL RECEIVE A CERTIFIED NAIL TECHNICIAN AND NATURAL NAIL CARE SPECIALIST CERTIFICATES FROM TONI.

DURATION: 26 CLASSES OR APPROX. 125 HOURS (INCLUDES MIDTERM AND FINAL WRITTEN AND PRACTICAL EXAMS)

TONI
Raising the Nail Technician's standard through
EDUCATION, PRODUCTS and SERVICES
The Ontario Nail Institute

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 - Advanced Sculpting (Gel or Acrylic)
 - Coloured Gel
 - Introduction to Coloured Acrylic
 - Advanced FB Techniques
 - Gel Toes
 - Machine Pedicure
 - The Speed Challenge
 - Airbrush Tanning
 - TONI Educators Program

Complete Aesthetics

THIS PROGRAM WILL TEACH STUDENTS MANICURE, PEDICURE, BASIC WAXING AND BASIC SKIN CARE ALL IN ONE COURSE, ALONG WITH RELAXATION MASSAGE, BROW AND EYELASH TINTING, AND INTRODUCTION TO AROMATHERAPY.

STUDENTS WILL LEARN ALL OF THE INFORMATION CONTAINED IN THE NATURAL NAIL CARE, WAXING, AND SKIN CARE MODULES.

DURATION: 34 CLASSES OR APPROX. 170 HOURS (INCLUDES WRITTEN AND PRACTICAL EXAM)

TONI
Raising the Nail Technician's standard through
EDUCATION, PRODUCTS and SERVICES
The Ontario Nail Institute named in the
TOP 10 schools in North America
"that rock" according to Nails Magazine.

<http://www.toni.ca/completeaesthetics.html>[11/30/2010 3:36:11 PM]

The school's class registration form lists deposits required for the Full Nail Program ("Complete Nail Technology") and the Full Aesthetics Program ("Complete Aesthetics") at \$800 and \$1000 respectfully.

Class Registration Form

Class Registration (check all that interest you) If you choose to participate in more than 1 course at a time discounts may apply to course fees.

Course	Course fee	Deposit required
<input type="checkbox"/> Full Nail Program	Call for pricing	\$800.00
<input type="checkbox"/> Manicure Techniques	\$685.00	\$250.00
<input type="checkbox"/> Pedicure Techniques	\$435.00	\$200.00
<input type="checkbox"/> Intro Nail Enhancements (pre-req)	\$765.00	\$300.00
<input type="checkbox"/> Gel Nail Technology	\$730.00	\$300.00
<input type="checkbox"/> Liquid/Powder Enhancements	\$625.00	\$300.00
<input type="checkbox"/> Electric Filing the safe way	\$95.00	\$50.00
<input type="checkbox"/> Troubleshooting	\$85.00	\$50.00
<input type="checkbox"/> Advanced Sculpting	\$85.00	\$50.00
<input type="checkbox"/> Coloured Gel art	\$95.00	\$50.00
<input type="checkbox"/> Coloured Acrylic	\$150.00	\$50.00
<input type="checkbox"/> Introduction to Nail Art	\$85.00	\$50.00
<input type="checkbox"/> Gel Toes	\$85.00	\$50.00
<input type="checkbox"/> Machine Pedicure	\$85.00	\$50.00
<input type="checkbox"/> Advanced Pedicure	\$95.00	\$50.00
<input type="checkbox"/> The Speed Challenge	\$85.00	\$50.00
<input type="checkbox"/> Introduction to Aromatherapy	\$95.00	\$50.00
<input type="checkbox"/> Salon Management & Marketing	\$95.00	\$50.00
<input type="checkbox"/> Full Aesthetics Program	Call for pricing	\$1000.00
<input type="checkbox"/> Introduction to Waxing	\$550.00	\$200.00
<input type="checkbox"/> Advanced Waxing -Brazilian	\$75.00	\$50.00
<input type="checkbox"/> Skin Care I	\$875.00	\$400.00
<input type="checkbox"/> Skin Care II	\$675.00	\$150.00
<input type="checkbox"/> Skin Care III	\$575.00	\$300.00
<input type="checkbox"/> Skin Care IV	\$675.00	\$250.00
<input type="checkbox"/> Skin Care V	\$725.00	\$250.00
<input type="checkbox"/> Relaxation Massage	\$550.00	\$250.00
<input type="checkbox"/> Brow & Lash Tinting & Perming	\$75.00	\$50.00
<input type="checkbox"/> Airbrush Tanning	\$85.00	\$50.00
<input type="checkbox"/> Roller Waxing	\$75.00	\$50.00
<input type="checkbox"/> Body Treatments	Coming soon	

Identification: Drivers License # _____
 Credit card # _____ Exp. Date _____

Deposit Date: _____ Amount: _____
 Payment method: Cash () Cheque () Debit () Visa () MC ()

Program costs are the responsibility of the student and must be taken into consideration prior to registration. Course deposits are non refundable and refunds will not be given to those who choose not to complete the program or to those who do not pass examination requirements. All classes must be paid in full on the class commencement date. Students choosing to pay by credit card will be charged a 2% processing fee.
All classes are part time classes and require both theory and practical studies. Classes are Monday, Tuesday & Wednesdays from 10am to 4pm. Evening and Saturday classes will be offered upon demand.

I, the undersigned agree to all terms and financial responsibility upon registration. I agree that The Ontario Nail Institute and their educators will not be responsible for any injury that I or my models may incur onsite or offsite while attending these programs.

Signature _____ Date _____

The Ontario Nail Institute 6-1425 Bishop St.N. Cambridge, ON N1R 6J9 1-877-528-1491 info@toni.ca

In response to an email sent by a Designate on November 2, 2010, Ellen Flood, who is identified as the Owner/Operator and Educational Director of Ontario Nail Institute on the school's website, indicated that January 2011 is the next start date for both the Aesthetics and Nail programs and that there are still spots available. She also stated that the programs are 3 months in length and would finish around April 2010. In addition, on November 12, 2010 a Designate received the following email written by Ellen Flood in response to a request for clarification.

Email Excerpt:

Fri, November 12, 2010 11:33:04 AM
Re: requesting more information
From: "ellen@toni.ca" <ellen@toni.ca>
Add to Contacts

■ *Laura Winters*
Cc: Julianne Amaral <julie@Toni.ca>

I am very sorry I was trying to get back to you yesterday! I am teaching day & evening right now and very so little computer time.

I am off today but please feel free to call my cell phone 5195776245.

I will be teaching at the school tomorrow as well.

The full nail program is \$3495, full esthetics is \$4530 both include textbook, uniform and some materials.

I look forward to speaking with you.

*Best regards,
Ellen Flood*

Nail Technicians and Aestheticians fall within National Occupational Classification (NOC) code 6482. Both are vocational programs that require approval by the Superintendent under the Act.

Further examination of the website on January 12, 2011 found that the school is no longer advertising the two programs; only the courses. However, the registration form still lists the two "full" programs and remains on the website at <http://www.toni.ca/currentcalendarofclasses.html>.

Based upon the evidence obtained, the Designate came to the reasonable belief that The Ontario Nail Institute is advertising a vocational program that requires approval by the Superintendent under the Act. The school has not obtained approval to offer this program and is therefore in contravention of Section 11 of the Act.

Contravention of section 8(1) of the Act – Prohibition against providing vocational programs

In the emails referenced in the section 11 evidence, the following information about Full Nail Technician and Full Aesthetics program was confirmed:

- The Full Nail Technician program is 125 hours with a cost of \$3,495.00
- The Full Aesthetics program is 170 hours with a cost of \$4,530.00

In addition, a Designate phoned the School on January 12, 2011 and inquired as to what programs were active. ■■■■■, an employee of the School, stated that the Full Nail Technician program was currently running with students actively in class. She also indicated that the cost of the program was \$3,149.50 with a duration of 14-15 weeks, delivered part-time with 2 sessions a week from 10am –

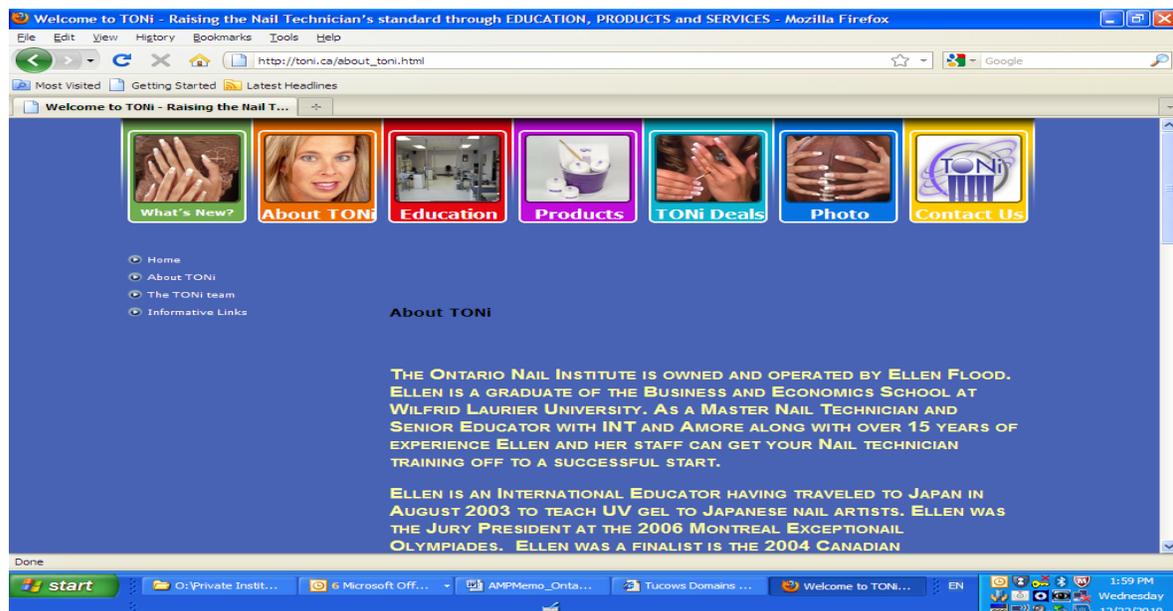
4 pm. She stated that the Full Aesthetics Program was not currently being offered.

The preceding information demonstrates that the School is currently delivering unapproved vocational programs. Therefore, since the School is not registered as a private career college under the Act, and the Full Nail Technician program is not approved by the Superintendent, delivering the program is prohibited under section 8 of the Act.

Contravention of section 7 of the Act – Prohibition against operating a private career college

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

- the evidence offered in the previous section that clearly indicates that the School is advertising vocational programs;
- A letter addressed to Ellen Flood-Heiman from the MTCU dated February 1, 2006 approving the use of the word "institute":
- Ellen Heiman authorized the registration of the business name "The Ontario Nail Institute" on September 19, 2007; and
- Ellen Flood is identified as the Owner/Operator and Educational Director of Ontario Nail Institute on the school's website (see printout below).



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.

BACKGROUND:

On February 1 2006, the school obtained consent from the Ministry of Training Colleges and Universities to use the word “institute” in its corporate name.

On September 25, 2006 the Ontario Nail Institute submitted a faxed pre-screening application to the Ministry for a program named Introduction to Nail Technology. The application stated that the course was 125 hours in duration. No fees were listed.

A response was provided to the school on December 28, 2006 informing the school that the Introduction to Nail Technology program required approval under the Act and that they would need to register.

Legal and Operating Entities

Ontario Nail Institute is corporation registered in the Province of Ontario under Ontario Corporation # 2148737. The Corporation is registered to Ellen Marie Heiman. The corporation has been registered since September 19, 2007.