

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, December 19, 2008

Blue Flame Academy Ltd.
50 Dundurn Street South
Hamilton, Ontario
L8P 4W3

Attention: Robert Spearing, President

Dear Sir:

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

This letter serves as your notice that I am refusing to register Blue Flame Academy Ltd. as a private career college, and that I am issuing an order restraining you from continued violation of the *Private Career Colleges Act 2005* ("PCCA, 2005"), and directing you to comply with that legislation.

The reasons for my decisions are set out in Schedule A, attached, and are summarized below.

Contraventions of the *Private Career Colleges Act, 2005*:

1. Continued Operation of vocational school in contravention of s. 7 of the PCCA, 2005 and in violation of the Superintendent's Restraining Order

A Restraining Order dated June 19, 2008 was issued against Blue Flame Academy Ltd. Ministry staff visited Blue Flame Academy Ltd. in August 2008 and was advised that there were 8 students enrolled in vocational training at that date.

2. Offering, providing and advertising an unapproved vocational program in contravention of sections 8 and 11 of the PCCA, 2005

On December 14, 2008, Robert Spearing advised Ministry staff that he continues to take applications from students for Blue Flame Academy Ltd. Blue Flame Academy Ltd. continues to date, to advertise the delivery of vocational programs at their school.

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 Blue Flame Academy Ltd. as a private career college.

You have continued to operate Blue Flame Academy Ltd. as a vocational school in violation of my Restraining Order dated June 19, 2008 and in contravention of s. 7 and 8 of the *Private Career Colleges Act, 2005*.

You submitted an incomplete application to register a Private Career College on August 26, 2008. That application remains incomplete, despite numerous follow-up attempts by Ministry staff.

I am satisfied that you are carrying on activities in contravention of the *Private Career Colleges Act, 2005* and thus, I shall not register Blue Flame Academy Ltd. as a private career college.

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

Restraining Order

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

- Operating as an unregistered private career college at 61 Kerman Avenue, Grimsby; 50 Dundurn Street South, Hamilton; and at any other location to which you may have moved;
- Offering and taking applications for unapproved vocational programs;
- Enrolling students and accepting any payments from students or prospective students;
- 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, Robert Spearing, as the President of Blue Flame

Academy Ltd. to deliver to me **by registered mail or courier and by no later than Friday, January 9, 2009** a written confirmation:

- a) that Blue Flame Academy Ltd. is no longer in operation;
- b) that Blue Flame Academy Ltd. has ceased delivering or holding itself out as delivering vocational programs;
- c) that Blue Flame Academy Ltd. has ceased soliciting or accepting applications from students for vocational programs;
- d) that Blue Flame has ceased all related activities, including advertising in any media;
- e) that Blue Flame Academy Ltd. does not hold, directly or indirectly, any monies owing to current, former or prospective students with contracts with the school;

And setting out:

- f) the names and addresses of all current and former Blue Flame Academy Ltd. students;
- g) the location of all Blue Flame Academy Ltd. student files;
- h) a date and time that all files will be made available forthwith to Ministry staff for review; and
- i) an explanation for the offering of and delivery of vocational programs prior to approval by the Ministry.

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.

Failure to comply with a requirement of this Order will put Blue Flame Academy Ltd. in further violation of the *PCCA, 2005*. If that occurs, I will be forced to consider further enforcement steps, including any one or more of the following: obtaining a court order under section 47 of the Act for compliance; or prosecuting Blue Flame Academy Ltd. under section 48 of the Act for the offence of failing to comply with my Orders, the *PCCA, 2005* and its regulations.

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 knowingly 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 416-314-0500 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,

Richard Jackson
Superintendent
Private Career Colleges

Attachments:

Schedule A	Reasons for Decision
	A) Chronology of Events
	B) Contraventions
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:

April 12, 2006	Blue Flame was incorporated on April 12, 2006. The President of Blue Flame Academy Ltd. is Robert Spearing and its Vice-President at the time was June Ballegeer, who is also the President of Bestech Academy Inc., another Gas Technician school that has not been properly registered with the Superintendent.
March 27, 2007	<p>The Ministry wrote to ██████████ at Blue Flame Academy Ltd. in response to their pre-screening submission for Gas Technician (G2) and Gas Technician (G3). Blue Flame Academy Ltd. was advised that until such time as it was registered and its programs were approved, it is a violation of sections 7, 8 and 11 of the Private Career Colleges Act, 2005 to deliver or advertise the delivery of vocational program(s). An institution cannot charge or collect a fee in relation to a vocational program until the registration and program approval process is complete under section 9 of the Act.</p> <p>There was no response to the March 27, 2007 letter from the Ministry.</p>
March 12, 2008	<p>Ministry staff printed website advertising for Blue Flame Academy at 61 Kerman Ave, Grimsby, L3M 3W3. Vocational programs which were advertised were:</p> <ul style="list-style-type: none"> ▪ Gas Technician (G1) ▪ Gas Technician (G2) ▪ Gas Technician (G3) <p>They advertised Full and Part time courses leading to a career as a licensed gas technician.</p> <p>The programs advertised provide students with the skills and knowledge required to obtain employment in a recognized vocation.</p>
March 25, 2008	<p>Ministry staff wrote to Blue Flame Academy Ltd. following up on the communication of March 27, 2007.</p> <p>Ministry staff stated that the March 27, 2007 letter required Blue Flame Academy Ltd. to submit an application for registration. Blue Flame Academy Ltd. was requested to advise the Ministry as to whether or not an application for registration was to be submitted.</p>

	<p>Blue Flame Academy Ltd. were advised, on March 25, 2008, that failure to comply with the Private Career Colleges Act, 2005 could lead to prosecution under s. 48 of the Act.</p> <p>Blue Flame Academy Ltd. were requested, on March 25, 2008, to advise the Ministry by April 7, 2008 as to whether or not an application for registration was to be submitted.</p>
April 25, 2008	A message was received from Blue Flame Academy Ltd. stating that they are in the process of registering as a private career college and that they are almost done. Despite this phone call, no application had been received.
June 4, 2008	Ministry staff confirmed that as at this date, Blue Flame Academy Ltd. continued to advertise their vocational training on their website, in contravention of s. 7 and s. 8 of the <i>Private Career Colleges Act, 2005</i> .
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 Blue Flame Academy Ltd. Robert Spearing, the President of Blue Flame Academy Ltd. was directed to cease and desist operating as an unregistered private career college and to cease and desist offering vocational programs.</p> <p>Blue Flame Academy Ltd. 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 20, 2008	Ministry staff attended at Blue Flame Academy Ltd. (Grimsby and Hamilton sites) to conduct site inspections and to review student files. Mr. Spearing advised Ministry staff that he would submit the completed registration package by Monday, August 25 th 2008. Mr. Spearing agreed to have the package ready for delivery to the representative on August 26 th 2008 due to a scheduled follow-up visit by the Ministry.
August 26, 2008	Second site visit by Ministry staff. On this date, only a <u>partial</u> application package was provided to Ministry staff by Mr. Spearing. He told Ministry staff that he had not completed his

	<p>application as he was having difficulties understanding the financial security requirements and would require more time to obtain the information and to complete the package. Ministry staff provided him with information.</p> <p>Mr. Spearing stated that he had 8 students enrolled who were scheduled to complete their training by August 29, 2008.</p> <p>Mr. Spearing committed to submitting the remainder of his package, along with a list of all previous and currently enrolled students, to the Ministry by August 28, 2008.</p>
August 28, 2008	<p>Robert Spearing left a message on Ministry staff's voicemail stating:</p> <p><i>"It's Robert from Blue Flame – I just want to let you know that right now it's in the hands of the courier company. You should have it tomorrow. I am going to do everything electronically tonight. So I was able to get everything. I feel the relief its all done. If you have any questions give me a call at 961-7701."</i></p> <p>Nothing was received by mail or courier and nothing was entered electronically onto the RICC database.</p>
November 3, 2008	<p>Ministry staff issued a letter to Mr. Spearing outlining the deficiencies in the partial application and setting out the requirements to complete the application. A deadline of November 20, 2008 was set.</p>
December 14, 2008	<p>Ministry staff reviewed the Blue Flame Academy website and found that unapproved vocational programs continued to be offered in contravention of the Act.</p> <p>Ministry staff called the phone number on the website and was connected to an answering service. The attendant in the service paged Mr. Spearing who returned the call.</p> <p>Ministry staff asked him if Blue Flame Academy Ltd was operating and he said it was. Ministry staff told him that he was in violation of the PCCA, 2005. Then he said Blue Flame was not operating. He said that the Grimsby location was shut down and that Hamilton was not operating as Blue Flame Academy. He said that they were taking applications, but no tuition money. Ministry staff told him that was a violation of the PCCA, 2005.</p> <p>Ministry staff asked him why when he received a Ministry letter dated November 3, 2008, he did not respond. He said</p>

	<p>that he was working on his application. Ministry staff told him that we have had no documentation, no response to the letter, nothing entered on the RICC system.</p> <p>He then said that his lawyer was working on his application. Ministry staff repeated that the Ministry had received nothing. Mr. Spearing said that he was meeting with his lawyer on Tuesday (December 16, 2008) and he would have his lawyer call Ministry staff. Mr. Spearing stated that his lawyer's name was [REDACTED].</p> <p>Mr. Spearing also stated that after Ministry staff visited him in August 2008, he hired a consultant to help him with the application. When Ministry staff asked him the name of the consultant, he could not remember.</p> <p>Mr. Spearing advised Ministry staff that he will have his application finished by the end of the week (December 19, 2008).</p>
December 19, 2008	As of the date of this Order, no application has been received and Mr. Spearing's lawyer, [REDACTED], has not contacted Ministry staff.

B) Contraventions:

1. Continued Operation of vocational school in contravention of s. 7 of the PCCA, 2005 and in violation of Superintendent's Restraining Order

The Restraining Order of June 19, 2008 directed Blue Flame Academy Ltd. 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.

Mr. Spearing failed to respond to the Superintendent by the deadline of July 7th 2008 as stated in the order.

On August 20, 2008, Ministry staff attended at 61 Kerman Ave, Grimsby and at 50 Dundurn Street South, Hamilton. Ministry staff found Blue Flame Academy Ltd. operating in violation of the Restraining Order dated June 19, 2008. Mr. Spearing advised Ministry staff that there were 8 students enrolled at that date and that they were scheduled to complete their training by August 29, 2008.

Blue Flame Academy Ltd. had continued to operate following receipt of the Order.

Blue Flame Academy Ltd. continues to advertise the delivery of vocational programs at their school. Ministry staff reviewed the school's website <http://www.blueflameacademy.com/contact.html> on December 14, 2008 and found that it remains operational. Vocational programs offered on the website are: Gas Technician G1, Gas Technician G2, and Gas Technician G3.

On December 14, 2008, Mr. Spearing advised Ministry staff that Blue Flame Academy Ltd. was operating and then he said it was not. He said that the Grimsby location was closed but he was continuing to take applications for the Hamilton location. He stated that Blue Flame Academy Ltd. was not accepting tuition monies.

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

2. Offering, providing and advertising an unapproved vocational program in contravention of sections 8 and 11 of the PCCA, 2005

On December 14, 2008, Robert Spearing advised Ministry staff that he continues to take applications from students for Blue Flame Academy Ltd.

Blue Flame Academy Ltd. continues to date, to advertise the delivery of vocational programs at their school. Ministry staff printed website advertising for Blue Flame Academy at 61 Kerman Ave, Grimsby, L3M 3W3. Vocational programs which were advertised were:

- Gas Technician (G1)
- Gas Technician (G2)
- Gas Technician (G3)

They advertised Full and Part time courses leading to a career as a licensed gas technician.

The programs advertised are found to provide students with the skills and knowledge required to obtain employment in a recognized vocation.

SCHEDULE "B"

ENTITLEMENT TO HEARING BY LICENCE APPEAL TRIBUNAL:

If **Blue Flame Academy Ltd.** disagrees with the Superintendent's decision to refuse to register it as a private career college pursuant to the *Private Career Colleges Act, 2005*, **Blue Flame Academy Ltd.** 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 Friday, January 9, 2009.**

If **Blue Flame Academy Ltd.** does not require a hearing by the Tribunal as set out above, the decision to refuse the school's registration application will be final as of **Friday, January 9, 2009.**

If **Blue Flame Academy Ltd.** 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.