

RESTRAINING ORDER

Served by email ([REDACTED]@yahoo.com) and by courier

May 19, 2010

Tran Cuong operating as Hippies Nails Salon
2021 Eglinton Avenue West
Toronto, Ontario, M6E 2K1

and

5424 Antrex Crest
Mississauga, Ontario L4Z 3T7

Attention: Tran Cuong

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 TRAN CUONG OPERATING AS HIPPIES NAILS SALON 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:

- refusing to assist the Superintendent and designates of the Superintendent by answering questions, producing documents, records or other things or to provide assistance, contrary to section 38(6) of the PCCA, 2005; and
- contravening section 38 (10) of the PCCA, 2005 by obstructing the investigation.

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:

- will cease refusing to assist the Superintendent and designates of the Superintendent by answering questions, producing documents, records or other things or to provide assistance, contrary to section 38(6) of the PCCA, 2005; and

- will cease contravening section 38 (10) of the PCCA, 2005 by obstructing the investigation.

If you are currently operating an unregistered Private Career College, these actions would be contrary to sections 7 and 8 of the PCCA, 2005 respectively. You would then be required to **immediately** take the steps outlined below in this order to comply with the PCCA, 2005.

Specifically, you:

- must stop operating an unregistered Private Career College;
- must stop providing unapproved vocational programs that require approval;
- must stop enrolling students into unapproved vocational programs that require approval;
- must provide the ministry with a list including the names and addresses of all current and former students;
- must provide full refunds to students who request refunds in writing and who were enrolled in unapproved vocational programs that require approval;
- must not hold, directly or indirectly, any monies owing to current, former, or prospective students of unapproved vocational programs that require approval;
- must hold student files to be available for the Superintendent's staff to review; and
- must 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 offences under the Act. 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.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.

Sincerely,

ORIGINAL SIGNED BY

Allan Scott
Superintendent
Private Career Colleges

Attachments: Schedule A – Detailed Reasons for Decision

Schedule A – Detailed Reasons for Decision

Contravention of section 38(6) of the PCCA, 2005 — Inquiries and examinations, Duty to Assist

On March 24, 2010, a designate of the Superintendent of Private Career Colleges conducted an inspection of Hippies Nails Salon, located at 2021 Eglinton Avenue West, Toronto, Ontario, M6E 2K1 to investigate concerns about the legitimacy of diplomas being issued by Hippies Nails Salon. Hippies Nails Salon is not registered as a private career college under the PCCA, 2005 and does not have approval of the Superintendent of Private Career Colleges to offer any vocational programs. Copies of diplomas provided to the Ministry showed Hippies Nails Salon was issuing diplomas for a 1200 course in manicure, pedicure, acrylic, silkwrap, biogel, nailart and waxing.

The owner of Hippies Nails Salon was not present upon the designate's arrival, however the Superintendent's designate was able to speak to the owner, Tran Cuong (who indicated his English name was "Shawn"), on the telephone during the inspection. During the telephone conversation with Ministry staff, Tran (Shawn) Cuong indicated that he was not able to come to Hippies Nails Salon at that time, but did provide certain information about a manicure/pedicure/acrylic course he was offering at the salon.

During the inspection at Hippies Nails Salon, the Superintendent's designate located a stack of 49 diplomas behind the cash register with graduates names on them for a 1200 hour course in manicure, pedicure, acrylic, silkwrap, biogel, nailart and waxing. Explanations as to why these diplomas were on the premises provided by Shawn and an employee at Hippies Nails were contradictory in nature.

On March 26, 2010, the Superintendent's designate requested that Tran (Shawn) Cuong provide additional information as a result of certain discrepancies identified during the inspection on March 24, 2010. The request was sent via email to the address provided by Tran (Shawn) Cuong ([REDACTED]@yahoo.com) on March 24, 2010. In that email, Tran (Shawn) Cuong was advised of the existence of the duty to assist under section 38(3) of the PCCA, 2005 and was provided with a link to ServiceOntario so that he could view the legislation himself. To date, there has been no response to this email.

On March 29, 2010, the Superintendent's designate sent another email to Tran (Shawn) Cuong at the email address [REDACTED]@yahoo.com, requesting production of specified information and documentation relevant to the inquiry/investigation of Hippies Nails Salon and unapproved courses it may have been offering when no response was received to the March 26, 2010 email. Tran (Shawn) Cuong was given until 5:00 p.m. on Wednesday, March 31, 2010 to produce the requested information. To date, there has been no response to this email.

Also on March 29, 2010, a letter was sent by courier to Tran (Shawn) Cuong requesting production of the same information and documentation specified in the email of the same day. That couriered letter was returned to the Ministry on April 12, 2010 as undeliverable.

On May 7, 2010, the Superintendent's designate telephoned Tran (Shawn) Cuong at the number he provided (905-278-8752) to the Superintendent's designate on March 24, 2010 to ask why he has not provided the requested documents. Tran (Shawn) Cuong told the designate that he was too busy to read his email. The designate reviewed Tran (Shawn) Cuong's legislative duty to assist in the inquiry under s. 38(6) of the PCCA, 2005 with him and explained that he was expected to produce the requested documentation. Tran (Shawn) Cuong agreed to personally meet the designate on May 11, 2010 at 10:00 a.m. at the Tim Horton's located at the intersection of highway #10 and Eglinton Avenue.

On May 10, 2010, Tran (Shawn) Cuong left a voicemail message for the designate, indicating that he did not have all the papers requested and does not know what papers the designate needed.

On May 11, 2010, Tran (Shawn) Cuong advised the designate during a telephone call that he had called the previous day to cancel the meeting with the Superintendent's designate. He said his business was closed, he did not want to meet with the designate, that he had nothing to say and that he had closed Hippies Nails. Tran (Shawn) Cuong was again advised of the legislative duty to assist the designate of the Superintendent in the inquiry under s. 38(6) of the PCCA, 2005. Tran (Shawn) Cuong said he would not meet with the designates personally and that he was tired. The designate offered to meet with Tran (Shawn) Cuong at his house that day. Tran (Shawn) Cuong refused. When Tran (Shawn) Cuong was asked whether he was refusing to meet with the designate, he said yes. When Tran (Shawn) Cuong was asked by the designate if he would ever meet with the Ministry, he said no. In summary, the Superintendent's designate asked Tran (Shawn) Cuong at least three times during this telephone call to meet with the Superintendent's designate, but those requests were verbally refused.

The Superintendent's designate also asked Tran (Shawn) Cuong at least five times to produce the requested information and documentation, but the requests were either wilfully ignored or refused:

- 1) Email of March 26, 2010
- 2) Email and couriered letter of March 29, 2010
- 3) During the telephone conversation with Tran (Shawn) Cuong on May 7, 2010
- 4) In the couriered letter dated March 29, 2010 which was left at Tran (Shawn) Cuong's premises with the female occupant [REDACTED] on May 11, 2010

Based on this information, it is clear that Tran (Shawn) Cuong violated the duty to assist under section 38(6) of the PCCA, 2005 by refusing to produce the requested information and documentation and by refusing to meet with the Superintendent's designates to answer questions.

Contravention of section 38 (10) of the PCCA, 2005 - Inquiries and examinations, Obstruction

While on the telephone with the Superintendent's designate during the inspection on March 24, 2010, Tran (Shawn) Cuong first indicated that Hippies Nails Salon only offered one 400 hour course in manicure, pedicure and acrylic. However, subsequent

to the Superintendent's designate locating a stack of 49 diplomas behind the cash register with graduates names on them for a 1200 hour course in manicure, pedicure, acrylic, silkwrap, biogel, nailart and waxing, Tran (Shawn) Cuong told the designate that he gives the diplomas to students who need to qualify in the United States. However, at a later point during the inspection, Tran (Shawn) Cuong told the designate that the diplomas were from the previous owner of Hippies Nails Salon and were just left there. Tran (Shawn) Cuong then told the designate that he provides 1200 hours of training or instruction to students who go to the United States to qualify. When the designate asked Tran (Shawn) Cuong why he said at the beginning of the conversation that he only offers one 400 hour course, he said that he also offers a 1200 hour course.

Based on this information, it is clear that Tran (Shawn) Cuong provided the Superintendent's designate with information on matters relevant to the inquiry which he knew to be false or misleading; an action which is therefore considered an obstruction under section 38(10) of the PCCA, 2005.

On May 11, 2010, Tran (Shawn) Cuong advised the designate during a telephone call that he had called the previous day to cancel the meeting with the Superintendent's designate. He said his business was closed, he did not want to meet with the designate, that he had nothing to say and that he had closed Hippies Nails. Tran (Shawn) Cuong was again advised of the legislative duty to assist the designate of the Superintendent in the inquiry under s. 38(6) of the PCCA, 2005. Tran (Shawn) Cuong said he would not meet with the designates personally and that he was tired. The designate offered to meet with Tran (Shawn) Cuong at his house that day. Tran (Shawn) Cuong refused. When Tran (Shawn) Cuong was asked whether he was refusing to meet with the designate, he said yes. When Tran (Shawn) Cuong was asked by the designate if he would ever meet with the Ministry, he said no. In summary, the Superintendent's designate asked Tran (Shawn) Cuong at least three times during this telephone call to meet with the Superintendent's designate, but those requests were verbally refused.

On May 11, 2010, Superintendent's designates visited the registrant address listed for Tran (Shawn) Cuong listed on the current business registration for Hippies Nails Salon, namely 5424 Antrex Crest, Mississauga, Ontario, L4Z 3T7. Upon arrival at the premises, the Superintendent's designates noticed that the door was wide open. A female, who later identified herself as [REDACTED], came to the door, greeted the Superintendent's designates and invited them into the living room after they had identified themselves. Ms. [REDACTED] advised the Superintendent's designates that Tran (Shawn) Cuong was present. One of the designates observed a male figure sitting in the back room of the premises at a kitchen table upon arrival.

After indicating that Mr. Cuong was present, Ms. [REDACTED] immediately went into the back room. After a few moments, she returned to the living room and announced that Tran (Shawn) Cuong had been there having coffee, but that she didn't know where he was now. The Superintendent's designates were unable to locate Tran (Shawn) Cuong during the visit. It is unclear whether Tran (Shawn) Cuong went into another room of the premises or left the premises through the back door.

Ms. [REDACTED] confirmed that it was her email address that Tran (Shawn) Cuong had been using. The returned March 29, 2010 couriered letter addressed to Tran (Shawn)

Cuong requesting production of information and documentation was left with Ms. [REDACTED] at her suggestion to give to Tran (Shawn) Cuong. To date, there has been no response to that letter.

Based on this information, it is clear that Tran (Shawn) Cuong deliberately refused to meet with the Superintendent's designates on a number of occasions, which is also considered an obstruction under section 38(10) of the PCCA, 2005.

BACKGROUND:

In early March 2010, the Ministry received an inquiry about Hippies Nails. There was some concern about the legitimacy of diplomas being issued by this institution. A copy of two diplomas from Hippies Nails was provided to the Ministry.

Legal and Operating Entities

Hippies Nails Salon is registered as the business name for the sole proprietorship of Tran Cuong on June 16, 2009, expiring on June 15, 2014. This registration is active. The business address is 2021 Eglinton Avenue West, Toronto, Ontario, M6E 2K1. The registrant address listed for Mr. Cuong is 5424 Antrex Crest, Mississauga, Ontario, L4Z 3T7.

Hippies Nails Salon was registered as a sole proprietorship to Huyen My Bui from May 17, 2005 to May 16, 2010. That registration was cancelled.

Tran Cuong registered the business name Hippies Nails at 2021 Eglinton Avenue West, Toronto, Ontario, M6E 2K1 from April 10, 2003 until April 9, 2008 as a sole proprietorship. The same registrant address is listed for Mr. Cuong as in the current business registration. Tran Cuong Ky-Ky also previously registered Hippies-Nails from January 20, 1998 to January 19, 2003 at 2021 Eglinton Avenue West, Toronto, Ontario, M6E 2K1 with a different registrant address listed.

During the designate's inspection of Hippies Nails Salon on March 24, 2010, Tran Cuong ("Shawn") provided his contact number: 905-278-8752. That telephone number is registered to Century Nails, 1187 Hurontario Street, Mississauga, Ontario, L5G 3H2. An ONBIS search shows that Tran Cuong Ky Ky cancelled a business name registration for Century Nail Salon which was registered on April 16, 2007 to April 15, 2012. Mr. Cuong does not currently appear to have any business interest in Century Nail Salon.