

2ND RESTRAINING ORDER

Served by email (pawz@rogers.com) and by courier

July 29, 2010

Lynn Tomalty a.k.a. Lynn Tomalty-Yee and Linda Tomalty known as
The Wizard of Pawz and/or Pawz Inn and/or The Doggie Divas
3320 McCarthy Road
Ottawa, ON K1V 0X3

Attention: Lynn Tomalty a.k.a. Lynn Tomalty-Yee and Linda Tomalty

This is a **2nd 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 LYNN TOMALTY A.K.A LYNN TOMALTY-YEE AND LINDA TOMALTY (“LYNN TOMALTY”) 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:

- Failure to refund all of the fees paid by students where you collected fees before the registration was issued for the college under the PCCA, 2005 and before the vocational program was approved by the Superintendent of Private Career Colleges within 30 days of the day the students delivered to the college a written demand for the refund, contrary to subsections 25(1) paragraph 3 i. and 25(4)(b) of the PCCA, 2005.

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 Friday, August 6, 2010** by registered mail or courier to my attention and confirm that you:

- have provided refunds to the students who requested refunds in writing and who were enrolled in unapproved vocational programs that require approval; and
- will provide refunds to any other students who request refunds in writing after this restraining order is served and who were enrolled in unapproved vocational

program that require approval in accordance with the full refund provisions set out in the PCCA, 2005.

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. a corporation is subject to a fine of up to \$250,000;
 - b. an individual is subject to a fine of up to \$100,000, a prison term of up to one year, or both; and
 - c. 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 subsections 25(1) paragraph 3 i. and 25(4)(b) of the PCCA, 2005

On April 27, 2010, the Superintendent of Private Career Colleges issued a restraining order under section 46 of the PCCA, 2005 against Lynn Tomalty for operating an unregistered private career college, offering unapproved vocational programs (a grooming course), charging fees for an unregistered private career college and unapproved programs and soliciting students to enrol, contrary to section 7, 8, 9 and 11(3), respectively.

As outlined in the April 27, 2010 order, pet grooming courses correspond to National Occupational Classification (NOC) code 6483 Pet Groomers and Animal Care Workers and require the approval of the Superintendent of Private Career Colleges to be offered as vocational programs.

That order contained the following direction to Ms. Tomalty:

*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 provided full refunds to students who requested refunds in writing and were enrolled in unapproved vocational programs that require approval;*

Subsections 25(1) paragraph 3 i. and 25(4) (b) of the general regulation under the PCCA, 2005 (O. Reg 415/06) requires that an unregistered school shall refund all of the fees paid by a student for a vocational program where the school charges or collects the fees before becoming registered or before the vocational program has been approved, and where the student delivers a demand for that refund to the school in writing. The refund of the fees paid for the unapproved vocational program fees must be paid within 30 days of the written demand for a refund by the student.

On April 15, 19 & 20 and 23, 2010, Ministry staff spoke to students who advised they were currently attending a grooming course at The Wizard of Pawz. As outlined in the restraining order of April 27, 2010, the students reported having paid different amounts for the grooming course and for their grooming kits. Students of The Wizard of Pawz provided copies of grooming course receipts, a copy of a document given to students entitled “The Wizard of Pawz 2009 Grooming School” and an Ottawa Police statement of one of the students outlining fees paid by the student for the pet grooming certification. Based on that information, it is clear that Ms. Tomalty was delivering an unapproved vocational program at an unregistered private career college.

On April 28, 2010, in response being told by a designate of the Superintendent of Private Career Colleges that the restraining order specified she must refund fees paid by current students, Ms. Tomalty advised the designate via telephone that she only had a few students, “spent time on them” and “won’t give back money.”

The students listed below advised the designate of the Superintendent that they were enrolled in the unapproved dog grooming course being delivered at The Wizard of Pawz. These students provided copies of their demand letters for a refund and confirmed the date in which they delivered their written demand to Ms. Tomalty, as follows:

Student	Date Written Demand Letter was Delivered to Ms. Tomalty	Amount paid by the student for the unapproved vocational program
██████████	April 28, 2010	\$7,898.00
██████████	April 29, 2010	\$6,000.00
██████████	April 28, 2010	\$6,042.00

On June 29, 2010, the Manager of the Compliance & Enforcement Unit of the Private Career Colleges Branch sent a letter to Ms. Tomalty addressing her failure to issue refunds to the students. In that letter, Ms. Tomalty was advised that if the refunds were not paid by Thursday, July 1, 2010 at 12:00 pm, EST, further enforcement action would follow.

On June 30, 2010, a designate of the Superintendent telephoned Ms. Tomalty at 613-260-7299 and left her a voicemail message. The designate referenced the letter sent by the Manager of the Compliance & Enforcement Unit and requested that Ms. Tomalty provide proof that she had issued the refunds to the students who had demanded refunds in writing. Acceptable proof was specified as cancelled cheques and/or letters to the students. The designate advised in the voicemail message to Ms. Tomalty that she could contact the designate if she had any questions.

On July 3, 2010, Ms. Tomalty responded to the designate's email, stating that one of the students had ██████████, which included the grooming amount, and was not to receive any money because the student would be committing fraud to receive "this" money and that another student did not fully pay for the course.

On July 5, 2010, the designate of the Superintendent again emailed Ms. Tomalty to seek confirmation as to whether or not she had issued refunds to students who had requested refunds in writing. Ms. Tomalty did not confirm same in her response, although repeated some of the same information she had provided to the designate in her email of July 3, 2010.

On July 27, 2010, all three students who had requested a refund in writing of Ms. Tomalt, namely, ██████████, ██████████ and ██████████, confirmed to a designate of the Superintendent that each of them had not received a refund from Ms. Tomalty to date. Therefore, more than 30 days has passed since each of these students delivered to Ms. Tomalty a written demand for a refund.

Also on July 27, 2010, the designate emailed Ms. Tomalty to ask whether she had issued refunds to students who had requested refunds in writing. Ms. Tomalty has not responded to the designate's email to date.

Based on these facts, it been determined that Ms. Tomalty had failed to provide full refunds to students who requested refunds in writing and who were enrolled in an unapproved vocational program (grooming course) that requires approval.

Legal and Operating Entities

On July 27, 2010, Ministry staff conducted an ONBIS search of Wizard of Pawz and found that the business had been registered from January 31, 2002 until January 30, 2007 as a sole proprietorship carrying on the business of pet supplies and grooming. Linda Tomalty was listed as the sole proprietor at 1988 Rosebella Street, Ottawa, ON K1T 1G7. There is no current business names registration for Wizard of Pawz. The business is still known as “The Wizard of Pawz” as evidenced on the website belonging to the business.

A federal corporate search conducted on July 27, 2010 indicates Wizard of Pawz Ltd. was incorporated on February 22, 2004, but was dissolved for non-compliance (s. 212) on June 8, 2007. Lynn Gail Tomalty is listed as the Director at 1930 Bank Street, Ottawa, ON K1V 7Z8.

On July 27 2010, an ONBIS search conducted on “Pawz Inn” and “The Doggie Divas” produced no records. These businesses appear to operate from the same location by the same individual, Lynn Tomalty. Neither business is registered as a federal corporation.

REQUIRED TO BE IN COMPLIANCE:

Written confirmation that you:

- have provided refunds to the students who requested refunds in writing and who were enrolled in unapproved vocational programs that require approval; and
- will provide refunds to any other students who request refunds in writing after this restraining order is served and who were enrolled in unapproved vocational program that require approval in accordance with the full refund provisions set out in the PCCA, 2005.