

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

Thursday, June 19, 2008

Excell
22 - 4380 South Service Road
Burlington, Ontario
L7L 5YG

Attention: Caroline Clark

Dear Ms. Clark:

Re: Notice of Restraining Order under clause 46 (1) of the *Private Career Colleges Act, 2005*

For the reasons set out in Schedule A, attached, I am of the view that Excell is not operating in compliance with the *Private Career Colleges Act 2005*.

Unregistered Campus

Pursuant to subsection 46(1) of the *Private Career Colleges Act, 2005*, I am directing Caroline Clark and Excell to immediately cease and desist:

- Operating as an unregistered private career college, Excell, 22 – 4380 South Service Road, Burlington, Ontario
- Offering non-approved vocational programs including Gas Technician 3
- Distributing any promotional program information or website advertisements, in whatever form, that use statements for the purpose of inducing a student or prospective student to enrol in a vocational program

Excell will deliver to me **by registered mail or courier and by no later than Monday, July 7, 2008** a written confirmation signed by an authorized officer or other official of Excell:

- a) that Excell at 22 – 4380 South Service Road, Burlington is no longer in operation;
 - b) that Excell does not hold, directly or indirectly, any monies owing to current, former or prospective students with contracts;
 - c) that the Excell's application for Registration of a Private Career College, will be delivered to the Ministry by **July 31, 2008**;
- and setting out:
- d) the names and addresses of all current and former Excell students;

- e) the location of all Excell student files;
- f) a date and time that all files will be made available forthwith to Ministry staff for review; and
- g) an explanation of the offering of and delivery of vocational programs prior to approval by the Ministry.

Compliance with the *Private Career Colleges Act, 2005*

The first step to ensuring compliance with the Act is the submission of full and complete registration documents for this unregistered campus. All private career college registration forms and guidelines, can be found at <http://www.serviceontario.ca>. Simply click on *Get the Forms You Need Quickly and Easily*, and follow the *Education and Training* link to *Private Career Colleges*. Once you review these documents, please call the telephone number listed above if you have any questions.

If your institution intends to continue to offer a vocational program but is not yet registered under the *Private Career Colleges Act, 2005* and/or the program is not yet approved by the Superintendent of Private Career Colleges, your institution cannot continue to advertise the program, accept/teach new students or collect any fees from new students.

If your institution has chosen not to continue to provide vocational programs, please confirm this with a letter to the Superintendent of Private Career Colleges. This letter must include the names and contact information of current students, the programs in which they are enrolled, and the date their training will be completed.

Contraventions of the *Private Career Colleges Act, 2005*

Pursuant to subsection 46(1) of the *Private Career Colleges Act, 2005*, I am directing Caroline Clark and Excell to comply with the legislation as follows:

1. Excell will **immediately** remove all non-approved vocational programs from its website.
2. Excell will provide my office with confirmation and evidence of the removal **by July 7, 2008**.
3. Excell will **immediately** stop enrolling students in unapproved programs, and refund tuition to those currently enrolled.
4. Excell will provide my office with confirmation and evidence that it has ceased enrolling students in unapproved programs and refunded tuition to those currently enrolled **by July 7, 2008**.

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 a non-approved program, the students will have the right to a full refund of those fees regardless of whether your institution has delivered the training.

If you continue to operate an unregistered campus and offer non-approved vocational programs despite this Restraining Order, you will be operating in violation of sections 7 and 8 of the *Act* and may be subject to penalties pursuant to s. 48 of the *Act*. This may preclude subsequent registration under the *Act* on the grounds that you are carrying on activities in contravention of the *Act*.

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 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 416-314-0497 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,

ORIGINAL SIGNED BY

Richard Jackson
Superintendent
Private Career Colleges

Attachments: Schedule A – Reasons for Decision

Schedule A – Reasons for Decision

Facts in support of Restraining Order

Pre-Screening

On April 12, 2006 Starlene Wiseman from Excell submitted a pre-screening form for their Gas Technician 2 and Gas Technician 3 programs. The pre-screening form indicated that the programs were post-secondary and 480 and 180 hours, respectively, in duration.

On November 2, 2006, Caroline Clark from Excell pre-screened their Gas Technician 3 program. The pre-screening form indicated that the program was postsecondary and 180 hours in duration.

Required to Register

On May 18, 2006, the Ministry wrote to Starlene Wiseman at Excell in response to their pre-screening submission, dated April 12, 2006, for Gas Technician 2 (G2) and Gas Technician 3 (G3), to confirm that the Gas Technician 3 (G3) program was a vocational program and Excell was required to submit an application to register a private career college.

Excell was advised that until such time as it was registered and its programs were approved, it is a violation under Sections 7, 8 and 11 of the Private Career Colleges Act, 2005 to deliver or advertise the delivery of vocational program(s). An institution can not 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.

There was no response to the May 18, 2006 letter from the Ministry. Excell did not apply for registration as a Private Career College as required by the Ministry.

On December 5, 2006, the Ministry wrote to Caroline Clark at Excell in response to their pre-screening submission, dated November 2, 2006, for Gas Technician 3 (G3), that the Gas Technician 3 (G3) program was a vocational program and Excell was required to submit an application to register a private career college.

Excell was advised that until such time as it was registered and its programs were approved, it is a violation under Sections 7, 8 and 11 of the Private Career Colleges Act, 2005 to deliver or advertise the delivery of vocational program(s). An institution can not 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.

There was no response to the December 5, 2006 letter from the Ministry. Excell did not apply for registration as a Private Career College as required by the Ministry.

Contravention of s. 7 and 8 of the *Private Career Colleges Act, 2005*:

On March 25, 2008 Ministry staff wrote to Excell as a follow up to the Ministry letters of May 18, 2006 and December 5, 2006.

Ministry staff stated in the March 25, 2008 letter that the May 18, 2006 and December 5, 2006 letters required Excell to submit an application for registration; despite the Ministry's letters, no application had been received. Ministry staff found, however, that Excell had continued to advertise vocational programs leading to careers in recognized vocations and thus were in contravention of s. 7 and 8 of the Private Career Colleges Act, 2005.

Excell was 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.

Excell was 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.

On April 3, 2008, Caroline Clark emailed the Ministry and asked if she could offer this course to her business exclusively and not to the public without registering.

On April 3, 2008, Ministry staff wrote and asked what employees in her business would require this program.

On April 8, 2008 Caroline Clark did not respond to the Ministry questions but emailed to state that they were offering the Gas Technician 3 course but that did not have to be approved. She stated that they would be teaching Gas Technician 2 in the future.

On April 8, 2008, Ministry staff wrote to Caroline Clark to advise that if they were offering Gas Technician 3, they had to register as a private career college.

Despite Ministry communications of May 18, 2006, December 5, 2006, March 25, 2008 and April 8, 2008, as well as their admission on April 8, 2008 that they are offering the Gas Technician 3 program, Excell has not submitted an application to Register as a Private Career College.

Meeting with the Technical Standards and Safety Authority (TSSA) on April 23, 2008

On April 23, 2008, the Ministry and their legal counsel met with representatives including TSSA's legal counsel, for the TSSA.

The TSSA acknowledged and supports the consumer protection role of the Private Career Colleges Act, 2005. The TSSA acknowledged and agreed that institutions could be regulated by more than one Act.