

RESTRAINING ORDER

Served by courier and e-mail to info_ontariobarberassociation.ca

July 30, 2010

The Ontario Barber Association
510 Main St E
Hamilton ON
L8N 1K7

Attention: Sean Gibson, Director

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 The Ontario Barber Association 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, The Ontario Barber Association is:

- failing its duty to assist with inquiries or investigations made by the Superintendent or a designate, contrary to section 38(6) of the PCCA, 2005; and
- advertising an unregistered private career college and advertising unapproved vocational programs, contrary to sections 11(1) and (2) of the PCCA, 2005, respectively.

The Ontario Barber Association 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 The Ontario Barber Association:

- has assisted the Superintendent's designate by providing a response to each of the questions posed to The Ontario Barber Association on July 23, 2010; and
- has stopped advertising an unregistered Private Career College and unapproved vocational programs that require approval.

If The Ontario Barber Association is currently providing unapproved vocational programs as an unregistered Private Career College, these actions would be contrary to sections 7 and 8 of the PCCA, 2005 respectively. The Ontario Barber Association would then be required to **immediately** take the steps outlined below in this order to comply with the PCCA, 2005.

Specifically, The Ontario Barber Association:

- must stop operating as a private career college;
- must stop providing unapproved vocational programs that require approval;
- must stop charging fees for unapproved vocational programs that require approval;
- must provide the ministry with a list including the names and addresses of all current students;
- must provide refunds to students who have made a written demand 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 The Ontario Barber Association 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.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 July 12, 2010 a designate of the Superintendent reviewed the website belonging to The Ontario Barber Association, <http://ontariobarberassociation.ca/>, and found it to be advertising a two month barbering course. The site did not list the cost of the program.



On July 15, 2010, designates of the Superintendent attended 510 Main St. E, Hamilton Ontario, the same address provided on The Ontario Barber Association's website. Designates of the Superintendent noticed that the sign for the barber shop contained the statement "Ontario's first educational facility for barbers." Designates of the Superintendent entered the shop and spoke with Sean Gibson, a director of the association. He acknowledged that the education is provided in that shop. Designates of the Superintendent asked about the cost and duration of the program. Mr. Gibson confirmed that the course is 8 weeks in length and costs \$3,000. When designates of the Superintendent asked Mr. Gibson about the specific contact hours required to complete the course he stated that he did not have that information available.

On July 23, 2010, a designate of the Superintendent sent a letter to Sean Gibson of The Ontario Barber Association by courier and e-mail. This letter instructed Mr. Gibson to provide the following information:

- 1) *The number of students enrolled in the barbering course since January 2009, their names, and the dates on which they commenced and graduated the program;*
- 2) *The amounts paid by each of the aforementioned students for enrolment in the program (including any fees for materials, textbooks, certifications etc.);*
- 3) *The number of contact hours (lectures, practical training etc.) taken by each of the aforementioned students;*
- 4) *The current cost and number of hours for the barbering program; and*
- 5) *Any other courses being offered by The Ontario Barber Association and the cost and duration of those courses.*

On July 25, 2010 Mr., Gibson sent an e-mail to a designate of the Superintendent that intimated he would not be providing any further information to the Ministry.

On July 26, 2010, a designate of the Superintendent sent an e-mail to Mr. Gibson advising that his July 25, 2010 response was not sufficient and informing of his legislated duty to assist in inquiries and investigations conducted by the Superintendent or a designate.

On July 26, 2010 Mr. Gibson sent an e-mail to a designate of the Superintendent which contained the following introductory sentence: "While we are teaching barbering at this location "The Barber Centre" The suggestion that our facility is a Private Careers College is erroneous." Mr. Gibson provided no other information about the barbering program he mentioned, nor did he answer any of the questions posed on July 23, 2010.

On July 27, 2010, a designate of the Superintendent e-mailed Mr. Gibson and once again reminded him of the July 27 deadline to provide the aforementioned information. A designate of the Superintendent cautioned Mr. Gibson of the possibility of administrative monetary penalties being issued for contraventions under section 38 of the *Private Career Colleges Act, 2005*.

On July 27, 2010, Mr. Gibson sent an e-mail to a designate of the Superintendent that provided no additional information about the barbering programs that were/are offered by The Ontario Barber Association, or offer a direct response to any of the five questions that were posed to him on July 23, 2010.

Despite being duly informed of his legislated obligations, Sean Gibson has not provided answers to questions posed to him by a designate of the Superintendent on July 23, 2010 and is therefore in contravention of section 38 (6) of the *Private Career Colleges Act, 2005*.

Contravention of section 11 of the PCCA, 2005 – Advertising Unregistered Private Career College and Unapproved Programs

On July 12, 2010 a designate of the Superintendent reviewed the website belonging to The Ontario Barber Association, <http://ontariobarberassociation.ca/>, and found it to be advertising a two month barbering course. The site did not list the cost of the program.



On July 15, 2010, designates of the Superintendent attended 510 Main St. E, Hamilton Ontario, the same address provided on The Ontario Barber Association's website. Designates of the Superintendent noticed that the sign for the barber shop contained the statement "Ontario's first educational facility for barbers." Designates of the Superintendent entered the shop and spoke with Sean Gibson, a director of the association. He acknowledged that the education is provided in that shop. Designates of the Superintendent asked about the cost and duration of the program. Mr. Gibson confirmed that the course is 8 weeks in length and costs \$2,000. When designates of the Superintendent asked Mr. Gibson about the specific contact hours required to complete the course he stated that he did not have that information available. Designates of the Superintendent did, however, form reasonable grounds to believe the program exceeded 40 hours in length.

Based on the information provided about the cost and length of the barbering program, it fits the definition of vocational programs according to the PCCA, 2005 and corresponds to National Occupational Classification (NOC) code 6271 Hairstylists and Barbers and is thus a vocational program within the meaning of the *Private Career*

Colleges Act, 2005 and is required to be approved by the Superintendent pursuant to section 23 of the Act. Since this college is not registered, and these programs are not approved, advertising either of them is prohibited in accordance with section 11 as noted above.

BACKGROUND

On July 5, 2006 Sean Gibson's operation of a barbering school was the subject of an article in *The Hamilton Spectator*.

The Ontario Barber Association is not affiliated with the Provincial Government of Ontario.

Legal and Operating Entities

On July 12, 2010 a designate of the Superintendent conducted an ONBIS search and found that The Ontario Barber Association was incorporated on February 15, 2010 with Sean Gibson as one of the directors.