



February 1, 2016

Dr. Rashed Elyas
CEO
Marinello School of Beauty
24741 Alessandro Blvd.
Moreno Valley, California 92553

Sent Overnight Via UPS
Tracking No: 1ZA879640190084431
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Re: Denial of Recertification Application to Participate in the Federal Student Financial Assistance Programs

Dear Dr. Elyas:

The U.S. Department of Education (Department) has reviewed Marinello School of Beauty – Moreno Valley’s (Marinello’s) application for recertification to continue to participate in the student financial assistance programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* (Title IV). In the normal course, Marinello’s Program Participation Agreement (PPA) would have expired on September 30, 2013. Marinello, however, timely submitted its recertification application prior to that date. As a result, the Department extended Marinello’s PPA on a month-to-month basis while evaluating the application and related matters. *See* 34 C.F.R. § 668.13(b)(2). This notice is to inform you that the Department has denied Marinello’s application for continued participation in the Title IV programs.

For purposes of evaluating a recertification application, the Department reviews the institution’s performance during the operation of its previous PPA. The Department must ensure that Marinello meets the Title IV standards of administrative capability and financial responsibility, has complied with Title IV program requirements, and has operated under the high standards required of a fiduciary. In reaching a decision on Marinello’s recertification application, the Department has reviewed all of the documentation it has obtained during its review of the institution, including documentation acquired on site in October 2015, and information obtained during student and employee interviews. As outlined below, the Department has concluded that Marinello has failed to adhere to a fiduciary standard of conduct, failed to comply with critical Title IV program requirements, failed to meet Title IV standards of administrative capability, and made numerous misrepresentations to students. Marinello’s misconduct in its administration of the Title IV programs will not be tolerated, and therefore, its recertification application is denied.

MARINELLO’S MISCONDUCT CONSTITUTES A SEVERE BREACH OF ITS FIDUCIARY DUTY TO THE DEPARTMENT AND UNDERSCORES ITS INABILITY TO MEET TITLE IV ADMINISTRATIVE CAPABILITY STANDARDS

Before Marinello began participation in the Title IV programs, the institution signed a PPA with the Department stating that Marinello would comply with all Title IV program requirements. These requirements mandate that Marinello use funds received under Title IV solely for the purposes specified in each individual student assistance program, since the funds received under those programs are held in trust for the intended student beneficiaries and the Secretary. 20 U.S.C. § 1094(a)(1); see generally 34 C.F.R. § 668.14. By entering into a PPA with the Department, Marinello, and its officers, accepted the responsibility to act as fiduciaries in the administration of the Title IV programs. As fiduciaries, the institution and officers are subject to the highest standard of care and diligence in administering the Title IV, programs and in accounting to the Secretary for the funds received. 34 C.F.R. § 668.82(a),(b).

In order to meet its responsibilities to the Department, an institution must be capable of adequately administering the Title IV programs. In this regard, an institution must comply with all Title IV statutory and regulatory requirements. 34 C.F.R. § 668.16(a). Further, an institution must administer the Title IV programs in which it participates with adequate checks and balances in its system of internal controls. 34 C.F.R. § 668.16(c)(1). This includes maintaining accurate and complete records supporting its compliance with all Title IV requirements and supporting Title IV payments made to each student. See 34 C.F.R. §§ 668.16(d), 668.24. An institution’s maintenance and submission of accurate records is critical to the Department’s oversight responsibilities. The Department relies on those records when determining, among other things, student eligibility and compliance with institutional eligibility requirements.

If the Department determines that an institution does not meet all requirements and standards in the Title IV regulations, a denial of the institution’s recertification application is warranted. See 34 C.F.R. § 668.13. As outlined below, Marinello falls severely short of meeting those standards.

A. Marinello Illegally Disbursed Title IV Funds By Fabricating High School Diplomas

Only eligible students may receive Title IV program funds. 20 U.S.C. § 1091; 34 C.F.R. § 668.32. To be eligible, students must be academically qualified to study at a postsecondary level. In this regard, a student must have a high school diploma or its equivalent or be beyond the age of compulsory school attendance and have the ability to benefit from the program of instruction that is being provided. See 20 U.S.C. § 1091; 34 C.F.R. § 668.32(e). Prior to July 1, 2012, a student who did not have a high school diploma or its equivalent could meet this requirement by passing an independently administered ability to benefit (ATB) test prior to receiving Title IV funds. 34 C.F.R. § 668.32(e)(2) (2011). A student could also meet this eligibility criterion if he/she satisfactorily completed 6 credits or equivalent coursework applicable toward a degree or certificate offered by the institution. 20 U.S.C. § 1091(d)(2008).

If a student did not meet one of these criteria, he/she was ineligible to receive Title IV funds. As relevant here, subsequent to July 1, 2012, a student must have a high school diploma or its equivalent to be eligible for Title IV funds. 34 C.F.R. § 668.32(e)(2).

During the course of its review, the Department uncovered a scheme created by Marinello to fill the void in student enrollment left when the ATB alternative for student basis of admission was eliminated. As presented to the Department, Marinello partnered with Parkridge Private School (Parkridge) in Long Beach, California, to offer a high school completion program to students wishing to enroll at the institution. Marinello heavily advertised the Parkridge program in its marketing materials and pushed students inquiring about its programs to sign up for the Parkridge program through them. When questioned about the program during the review, Marinello officials assured the Department that the Parkridge program was legitimate and independent from the institution.

The Parkridge program allegedly used by Marinello is called Project Diploma. Parkridge itself provided information regarding this program to the Department in response to a prior program review of Marinello. The Parkridge documentation describes this program as a mechanism for adults to take the remaining coursework needed to reach the required 220 credits necessary to earn a high school diploma. Coursework is completed under the direction of credentialed teachers who meet face to face with students. If distance is a factor, phone or email contact is required, but this is the exception rather than the rule. The documentation provided further states that the curriculum is aligned to California and National standards with a course of study that meets or exceeds college standards. Students are required to take proctored exams once all coursework is completed and evaluated. Parkridge maintains that the length of time for completing the program varies depending on the student, and compares the program to a summer college session which it claims can be completed by a working adult in 6 to 8 weeks.

During the review, Marinello was questioned in depth about the administration of the Parkridge program at the institution. Although staff at the Marinello locations reviewed were initially evasive regarding the specifics of the program, the Department was able to obtain some information from Marinello's Corporate Director of Outreach/High School, Edmund Soto. Mr. Soto acknowledged that Marinello approached Parkridge to establish a relationship so that students wishing to attend the school could obtain the required high school diplomas. There was no written agreement, however, outlining the process to be used to accomplish this task. Mr. Soto went on to state that students who wish to take advantage of the program pay \$75 for the program, and Marinello pays the remainder although he was unsure of the total cost. With respect to the process, Mr. Soto stated that Marinello collects the application, high school transcript, and credit card payments from the Parkridge students. Marinello staff then pass out the workbooks for the subjects Parkridge has determined that each student needs to complete in order to earn their high school degree. Marinello staff collect the completed workbooks from the students and send them to Parkridge for evaluation. Mr. Soto also stated that the time for completing the program varies depending on the student and that Marinello staff proctor the necessary tests. Mr. Soto assured the Department that students were provided the option of other programs for obtaining the necessary credentials for Title IV eligibility, including a GED program. This information, and the availability of alternatives to Parkridge to achieve Title IV eligibility, was also confirmed by other Marinello officials.

The representations made by both Marinello and Parkridge officials to the Department with regard to the administration of the Parkridge program at the institution were incomplete and, in some cases, patently false. Although told that all students paid \$75 for the program, students interviewed by Department staff stated that the fees for some were as high as \$150. The Department is unable to determine why the fees differ among students. Some students interviewed stated that they did not have to pay any fees for the program despite the fact that Mr. Soto had stated that all students were required to pay a portion. It should be noted that when told about the fee structure students were informed by Marinello officials that if they did not enroll or dropped out of Marinello they would have to pay the additional cost of the Parkridge program originally paid by Marinello. Despite assurances by Marinello staff that students were provided options regarding how they could become Title IV eligible students, virtually all of the students interviewed informed the Department that the only option they were provided by Marinello was completion of the Parkridge program. Even where students were provided other options, they were encouraged by Marinello officials to choose Parkridge because the officials claimed it cost less and could be completed quickly.

Contrary to representations to the Department made by Parkridge officials, Marinello students were not provided “coursework” that was completed under the direction of credentialed teachers. In fact, students were not provided interactive coursework at all, but rather small workbooks and/or packets to complete on their own with questions and answers similar to those that would be on the test. Some students were provided review material that had the exact questions and answers that were on the test they had to take. Students that were interviewed repeatedly told Department staff that they had absolutely no interaction with Parkridge staff or officials.

The information presented by both Parkridge and Marinello to the Department indicates that students would only be provided “coursework” that was needed to meet California high school completion standards based on a review of the students’ transcripts. The information gathered by the Department establishes that this is not accurate. Students were routinely provided four workbooks/packets to complete for basic reading/language arts, science, math, and social studies no matter what coursework they still needed to complete at the time they dropped out of school.

Although the information provided to the Department indicates that the workbooks completed by the students were sent to Parkridge for evaluation by them prior to student testing in that subject, students uniformly told Department staff that they would take the tests the day they turned in the workbooks. The length of time between the student obtaining the workbooks from Marinello staff and the time the student took the test did vary; however, the time frame was significantly shorter than the time it would take “a working adult to complete a summer college session,” and much less than the six to eight-week timeframe estimated by Parkridge in its representations to Departmental officials. According to information obtained from student interviews, most students took the tests a week after receiving the books.

The information provided to the Department regarding the tests was also false or misleading. As confirmed in student interviews, students took the tests on a computer at

Marinello, and the test was set up by Marinello staff. Although the information provided by Parkridge to the Department stated that all tests related to the adult diploma program are proctored, and Mr. Soto told Department officials that Marinello staff proctored the test for its students, this was not the case. Virtually all of the students interviewed stated that no Marinello staff stayed in the room while they took the tests. Even if all of the tests had been proctored, the lack of independence in evaluating the results would lead the Department to question the validity of the test results. Additional information that was obtained would support that conclusion. Some students stated that they were permitted to use the workbooks and packets while taking the tests or were allowed to use their phones to look up answers, and other students were provided answers by Marinello staff to questions they didn't know. Further, virtually all students interviewed stated that the Marinello employee who pulled up the test on the computer gave them their results immediately after they finished the tests. Students who failed the tests would keep repeating the same test until they passed. All of this information clearly calls into question the veracity of the testing process.

Facts that were obtained regarding the physical diploma also call into question the validity of the entire process. For the vast majority of students, Parkridge sent the students' diplomas to Marinello for distribution rather than sending them directly to the students. Marinello held the diplomas for many of the students until after they completed a set portion of the institution's program of study. In fact, the Department interviewed students who withdrew from Marinello and have still not received their Parkridge diplomas. In addition, some students were actually told that their Parkridge diplomas would be invalidated if they withdrew from Marinello.

The information obtained during the review establishes that Marinello controlled the entire process for issuing the "diplomas" the students received, and that process was far from legitimate. Parkridge was merely used as a front for Marinello in an attempt to legitimize its activities and hide its illegal actions.¹ After analyzing all of the information obtained during the review, the Department has concluded that the Parkridge program, as administered by Marinello, does not provide students with a valid high school diploma which was required in order for these students to be eligible for Title IV aid. Consequently, those students were ineligible to receive Title IV funds. As relevant to this action, Marinello illegally disbursed funds to 117 students who did not possess a valid high school diploma.²

It is clear from the information obtained during the review that Marinello established this fraudulent scheme to ensure it would not lose student enrollments as result of the change in the Title IV statute removing ATB as a basis of admission option. Marinello's actions surrounding the Parkridge program fall severely short of the conduct required of a fiduciary of federal funds. Not only did the institution illegally obtain millions of dollars in Title IV funds, Marinello's actions caused undue harm to its students. These students, who trusted the institution, are now faced with the fact that the high school diplomas they were given are worthless. As a result, the students' ability to continue postsecondary education elsewhere are limited or foreclosed as they

¹ It should be noted that Marinello paid Parkridge approximately \$1.6 million for diplomas given to students at all locations since the ATB alternative was abolished.

² The individual students are identified in the chart included as Attachment A to this action.

do not meet the threshold eligibility requirement to embark upon higher education, much less obtain the funding to pay for it. Marinello's actions underscore the need for this denial.

B. Marinello Callously Disregarded Students' Financial Need

The Title IV statute defines the required components an institution must use to construct cost of attendance budgets when calculating a student's eligibility for Title IV funds. In general, these components include tuition and fees, and an allowance for books, supplies, transportation, and miscellaneous personal expenses. See 20 U.S.C. § 10871l. Schools do not have the authority to limit the amount of Title IV aid an individual student may receive on a categorical basis. 20 U.S.C. § 1087tt; 34 C.F.R. § 685.301(a)(8). Further, institutions may not limit students' Direct Loan borrowing to the amounts needed to cover only institutional costs or to a percentage of direct or indirect costs. The basis for any reduction in a student's award must be provided to the student and documented in the student's file. 34 C.F.R. § 685.301(a)(8)(ii). An institution is prohibited from misrepresenting the nature of its financial charges to its students. 34 C.F.R. § 668.73.

As a fiduciary, an institution must not take action that will cause undue hardship to its students. During the course of its review, the Department discovered that Marinello failed to provide a large percentage of its students the full amount of Direct Loan funds the students were eligible to receive. As a result of this limitation, students have received less Title IV funds than are needed to cover the tuition and fees charged by the institution. In general, the shortage for each student totals a little over \$1000, and the students are required to sign an installment contract with the institution for that amount. The contract requires the students to make monthly payments to Marinello while in school. Since the Marinello-imposed limitation results in students not even being able to cover their direct tuition costs, students also do not receive the additional funds they would have received for living expenses had the full loans been awarded and disbursed. There is no documentation in the student files providing a justification for the limitation.

Students routinely informed the Department during interviews that Marinello staff failed to tell them how much Title IV aid they were entitled to receive. To the contrary, Marinello told students that their financial aid did not cover their tuition and fees and that they would need to make monthly payments. Students were threatened with suspension if the monthly payments were not made. Marinello failed to increase student loan awards even when students explained that the payments were causing an extreme financial hardship, or that they needed extra funds for child care or transportation. Several students informed the Department that they had to withdraw because they could no longer make the required payments, or because they did not have funds for child care or transportation.

In the 68 sample files reviewed, the Department discovered under awards for Students 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 34, 25, 26, 27, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, and 69. This represents 93% of the sample population.

Marinello's policy of limiting student access to much-needed Title IV loan funds for this economically disadvantaged population underscores the institution's callous attitude towards its responsibilities to both its students and the Department. Marinello's egregious conduct is magnified by the fact that staff routinely lied to students about their rights as recipients of Title IV funds. Marinello's misconduct cannot be tolerated.

C. Imposition of Excessive Overtime Charges

To participate in the Title IV programs, an institution must at all times act with the competency and integrity necessary to qualify as a fiduciary. As a fiduciary an institution is subject to the highest standard of care. 34 C.F.R. § 668.82. Marinello's policies surrounding overtime charges are in direct conflict with this standard.

During the course of its investigation, the Department found that Marinello imposed excessive charges for make-up hours on many of its students. Marinello's enrollment agreement sets forth the cost of tuition, fees, books, and kits. The agreement also informed the students that additional overtime charges would be imposed if the student did not complete his/her program of study by a specified date. The agreement provided a three-week grace period after which a student would be charged \$11 for each additional hour he/she attended after the specified date and grace period elapsed.

Students interviewed by the Department stated that Marinello would not permit the students to make up missed hours until they had reached the latter part of their program. This policy provided students a tight time frame for completing hours owed before the student began incurring overtime charges. A number of students interviewed by the Department stated that when they were close to their scheduled graduation date Marinello informed them that they were missing a large number of hours. Since it was late in the program, the students did not have sufficient time to make up the missing hours prior to reaching the expected completion date Marinello had established at the beginning of their programs, nor could the missed hours be completed within the established grace period, resulting in large overtime charges. Students reported that Marinello never provided them with a full accounting breakdown of the overtime charges by hour, and in most cases students believe that they had not missed as many hours as Marinello claimed they had based on the amount of the charges. The students' claims are supported by the fact that the attendance scanner was not always functioning, the instructor rolls are discarded after a month, and there is conflicting information in student files and in documentation provided by students.

In the sample files reviewed, the overtime charges ranged as high as \$4200. Since Marinello would not allow students to graduate and receive their transcript hours in order to take the state licensing exam if they had a cash balance on their tuition accounts, they were forced to take out an institutional loan which carried additional interest charges, increasing even more the students' overall cost of the program. Students 1, 3, 8, 26, 33, 48, and 53 were all assessed excessive overtime charges.

Marinello's actions surrounding these excessive overtime charges are inconsistent with a fiduciary standard of conduct and underscore the institution's callous disregard for its students.

Such behavior further supports the Department's action to deny the institution's application for recertification.

D. Misrepresentation

Inherent in a fiduciary standard of conduct is the requirement that an institution operate in a forthright and truthful manner when dealing with students. In this regard, institutions are prohibited from making misrepresentations to students, or prospective students, regarding their educational programs, the financial charges assessed by the institution, or the employability of its graduates. 34 C.F.R. §§ 668.71-668.74. Department reviewers discovered that Marinello misled students regarding key elements of their educational programs and financial charges.

The Department discovered through student interviews that Marinello misrepresented its educational programs to prospective students. When students enrolled, Marinello staff promised the students they would receive an exceptional education taught by quality staff. Students were promised in-depth training in all areas of cosmetology, nails, and barbering. The training was to include both theory and hands on work in the clinic; however, students repeatedly informed Department staff that they did not receive the training in all functional areas needed to obtain jobs in the field. Students also stated that Marinello staff would pull them out of theory instruction in order to work on the clinic floor and then would not provide students instruction in the material they missed as a result of their absence from class. Departmental staff interviewed Marinello cosmetology students who supposedly "graduated" yet were unable to cut hair. The Department also spoke with barbering students who could not perform all of the various cuts required to perform successfully in that field. Marinello's failure to ensure students were provided provide training sufficient to obtain jobs in their field of study provides further evidence that the institution's recertification application should be denied.

Further, students at Marinello were not provided equipment and materials necessary to effectively complete their programs of study. Students attending Marinello were assessed between \$2500 and \$2750 for books and supplies. Despite this fact, students had to spend hundreds of dollars to purchase supplies needed to learn because the institution failed to provide required items. Students repeatedly informed Department staff that the kits they received were either missing essential items or the equipment included was of inferior quality, and they would have to replace it with their own money. When a student enrolls, there is an inherent expectation that the institution will have the equipment and supplies necessary for the students to learn. It is virtually impossible for students to obtain adequate training without the necessary equipment and supplies. Marinello's failure to provide sufficient equipment and supplies is even more egregious in light of the fact the students were charged thousands of dollars in their tuition for these exact items.

Marinello has failed to adhere to a fiduciary standard of conduct and failed to meet its responsibilities to the Department and its students. Consequently, its application for recertification must be denied.

As a result of this denial of its recertification application, Marinello is no longer eligible to participate in the Title IV programs. See 34 C.F.R. § 668.13(b)(2). In particular, Marinello is

no longer be eligible to participate in the following Title IV programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan). The Direct Loan program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan program, the Federal Direct PLUS Program, and the Federal Direct Consolidation Loan program. The FSEOG, FWS, and Perkins Loan programs are known as campus-based programs.

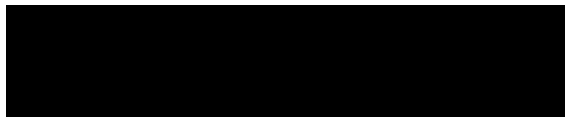
Should Marinello have factual evidence to dispute the Department's findings, and demonstrate their inaccuracy, Marinello may submit that evidence via overnight mail to me at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Program Compliance
830 First Street, NE (UCP-3, Room 84F2)
Washington, DC 20002-8019

If any such material is received by February 16, 2016, it will be reviewed and Marinello will be notified if the recertification denial will be modified, rescinded, or left in place. If Marinello does not submit such material by that date, the denial of recertification will be effective February 29, 2016. The Multi-Regional and Foreign School Participation Division will then contact you concerning the proper procedures for closing out Marinello's Title IV program accounts.

In the event that Marinello submits an application to participate in the Title IV programs in the future, that application must address the deficiencies noted in this letter. If you have any questions about this letter, you may contact Kathleen Hochhalter at (303) 844-4520.

Sincerely,

A large black rectangular redaction box covering the signature of Susan D. Crim.

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

cc: Tony Mirando, Executive Director, National Accrediting Commission of Career Arts & Sciences, via amirando@naccas.org
Joanne Wenzel, Bureau Chief, California Bureau for Private Proprietary Education, via Joanne.Wenzel@dca.ca.gov
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov