



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

In the Matter of

Docket No. 08-06-SA

**ROSSLYN TRAINING ACADEMY
OF COSMETOLOGY,**

Federal Student
Aid Proceeding

ACN: 02-2006-38333

Respondent.

Appearances: Rosin Gonzales Nieves, President, Rosslyn Training Academy of Cosmetology

Denise Morelli, Esq., Office of the General Counsel, United States Department
Of Education, Washington, D.C., for Federal Student Aid.

Before: Richard I. Slippen, Administrative Judge

DECISION

On January 25, 2008, Rosslyn Training Academy of Cosmetology (RTAC) appealed the U.S. Department of Education's (Department) Final Audit Determination (FAD) dated November 21, 2007. On March 12, 2008, I issued an Order Governing Proceedings in the above-captioned proceeding. In my Order, Respondent's brief and exhibits were due on or before April 14, 2008. Upon receipt of Respondent's brief and exhibits, the Department's Office of Federal Student Aid's (FSA) brief and exhibits were due on or before May 14, 2008. Respondent has not submitted its brief nor requested an extension of time to file its submission. On April 25, 2008, FSA filed a Motion for Default Judgment in this proceeding. On or before May 12, 2008, I ordered Respondent to show cause as to why I should not issue a default judgment in this proceeding. To date, the Respondent has failed to comply with my show cause order.

The November 21, 2007 FAD asserts that RTAC, operating as a proprietary institution of higher education, must meet several eligibility requirements in order to maintain its participation in the Title IV, HEA programs. See 34 C.F.R. § 600.5. Among those eligibility requirements is the mandate that an institution have no more than 90 percent of its revenues derived from Title IV program funds. 20 U.S.C. § 1002(b)(1)(F); 34 C.F.R. § 600.5(a)(8). The Title IV, HEA regulations describe the calculation that must be used to determine an institution's compliance

with this requirement. See 34 C.F.R. § 600.5(d). For the fiscal year ending December 31, 2005, RTAC's own auditor reported that, in direct violation of the regulations, more than 90 percent of the institution's revenues for tuition and fees were derived from Title IV, HEA funds. The New York/Boston School Participation Team of FSA requested that the auditor provide work papers to verify whether this percentage was correct. FSA's review of the auditor's work papers determined that the auditor's percentage calculation was accurate.

The FAD further charges that since RTAC failed to meet the 90 percent requirement for the fiscal year ending December 31, 2005, the institution became ineligible for participation in the Title IV, HEA programs as of that date. 34 C.F.R. § 600.40(a)(2). Therefore, except for any limited payments allowed under 34 C.F.R. § 668.26 that can be documented by RTAC, the FAD states that the institution is liable for all Title IV funds received for the period beginning January 1, 2006 to the date of the issuance of the FAD. The FAD calculates that RTAC received \$152,350.00 in Title IV program funds after January 1, 2006. Additionally, the FAD determines that RTAC is liable for imputed interest of \$8,632.00 for all Title IV funds received from January 1, 2006 through September 30, 2007. In sum, the FAD asserts that the Rosslyn Training Academy of Cosmetology should reimburse \$160,982.00 in Title IV funds directly to the Department of Education.

Pursuant to 34 C.F.R. § 668.117(c)(3), I have the authority and responsibility to terminate the hearing process and issue a decision against a party if that party does not meet time limits established pursuant to my orders. As such, I find that Respondent's failure to file a brief as ordered or respond to my Order to Show Cause warrants the termination of this proceeding. Further, after a review of the FAD, I am convinced that the findings contained therein sufficiently state allegations in a manner that would require RTAC to carry its burden of proof in this proceeding. 34 C.F.R. § 668.116(d). The lack of response to my orders reflects RTAC's failure to carry its burden of proof. Therefore, the FAD is affirmed and liability of \$160,982.00 is upheld.

ORDER

On the basis of the foregoing, it is hereby ORDERED that Rosslyn Training Academy of Cosmetology pay to the U.S. Department of Education the sum of \$160,982.00.

Judge Richard I. Slippen

Dated: December 11, 2008

SERVICE

A copy of the attached document was sent to the following:

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