



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

In the Matter of

Docket No. 15-29-SA

**LYNNDALE FUNDAMENTALS
OF BEAUTY SCHOOL,**

Federal Student Aid Proceeding

ACN: 06-2014-41576

Respondent.

Appearances: Jaquita Hayden, Owner, El Dorado, Arkansas, for Lynndale Fundamentals of Beauty School

Donna S. Mangold, Esq., Office of the General Counsel, U. S. Department of Education, Washington, D.C., for the Office of Federal Student Aid

Before: Judge Ernest C. Canellos

DECISION

By letter dated March 31, 2015, Respondent's owner filed a Request for Review in the above-captioned proceeding challenging the findings in a Final Audit Determination (FAD), issued by the U. S. Department of Education (ED), Federal Student Aid Office (FSA) on March 9, 2015. On May 13, 2015, I issued an Order Governing Proceedings directing the Respondent to file its brief and evidentiary matters by June 30, 2015. Respondent neither filed its brief by that date nor requested an extension of the filing date. Finally, on July 14, 2015, FSA's Counsel filed a Motion requesting that I enter a default judgment against the Respondent.

In order to give the Respondent a final opportunity to comply, I issued a Show Cause Order under authority of 34 C.F.R. § 668.117 (c) (3), directing that on or before July 31, 2015, Respondent shall provide the brief and evidentiary matter as described above, to me and FSA Counsel. Further, I ordered that by that date, Respondent shall Show Cause why I should not terminate the proceedings and issue a default judgment in favor of FSA thereby affirming the findings and demand in the FAD. Because to date, I have received no filing or communications from the Respondent, as a procedural matter, I hereby close the administrative record and find

that the Respondent has effectively abandoned its appeal.

As a consequence of Respondent's failure to provide its brief and evidentiary matters, I must review the administrative record as it exists. Upon such review, I find that, despite many opportunities to do so, the Respondent has failed to submit the required close-out audit as required by 34 C.F.R. § 668.26. In addition, I find that FSA, through its issuance of the FAD and supporting documentation, has presented a prima facie case in support of its claim for the return of \$37,958.67 in unaccounted for Title IV funds.

The law is explicitly clear in this area. A close-out audit is required and failure to submit such an audit equates to the Respondent's inability to account for Title IV federal education funds for the period since the last periodic audit. As I have commented previously in similar situations, it is fair to surmise, absent some showing of wrongdoing, that not all of the Title IV federal funds drawn down by the Respondent were erroneously spent -- it is possible, if not probable, that some of those funds were properly expended. Yet, the great weight of authority supports the demand for the return of all Title IV funds drawn down since the last audit period. This anomalous situation results from the fact that the Respondent agrees in its Program Participation Agreement with FSA to act as a fiduciary as it relates to Title IV funds, and, as such, has a legal duty to account. *See, In re Samverly College of Barber/Hairstyling*, Docket No. 96-144-SP, U.S. Dep't of Educ. (June 21, 2000). *See also, In re Velma B's Beauty Academy*, Docket No. 13-09-SA, U.S. Dep't of Educ. (Dec. 4, 2013). Most important, FSA, as the responsible federal agency, is left with no other acceptable alternative than to require the submission of the required audit or some other alternative and verifiable proof of the correctness of the questioned expenditures.

ORDER

On the basis of the foregoing findings, it is hereby ordered that Lynndale Fundamentals of Beauty School pay to the U.S. Department of Education the sum of \$37,958.67, as demanded in the FAD.

Ernest C. Canellos
Chief Judge

Dated: August 3, 2015

SERVICE

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

Mrs. Jaquita Hayden, Owner
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