

IN THE MATTER OF KELLY'S BEAUTY SCHOOL,
Respondent.

Docket No. 94-85-ST
Student Financial Assistance Proceeding

Appearances: Marie Obeso, for the Respondent

Donald C. Philips, Esq., for the Office of
Student Financial Assistance Programs, United
States Department of Education

Before: Judge Ernest C. Canellos

DECISION

This matter involves an appeal by Kelly's Beauty School (Respondent) of a Notice of Intent to Terminate and Fine, dated April 19, 1994, issued by the Office of Student Financial Assistance Programs (SFAP), U.S. Department of Education (ED). On August 4, 1994, I issued an Order Governing Proceedings which required the parties to brief this case. I initially required SFAP to file its brief and any exhibits within four weeks of the date of the Order. However, on September 1, 1994, SFAP counsel contacted the undersigned to advise that: he has been unable to reach the Respondent's President; that it appears Respondent has closed its operations; that Respondent's counsel has withdrawn from the case; and there appears to be no one actively proceeding with an appeal. Consequently, SFAP's counsel filed a motion for default judgment in the case.

Pursuant to SFAP's motion, I issued a Show Cause Order on September 2, 1994, requiring the Respondent to respond within 15 days and state why I should not act favorably upon the pending motion for default judgment. Respondent was advised that if no timely response was received, judgment would be entered against it and the appeal would be dismissed. The Order was sent by certified mail, return receipt requested (RRR), to the Respondent, as well as by first class mail to the only known address for Respondent. No response was received.

Under 34 C.F.R. . 668.89(c), the hearing official is authorized to take whatever measures are appropriate to expedite the proceeding. These measures may include, but are

not limited to,
setting time limits for hearings and submission of written documents, and terminating the hearing and issuing a decision against a party if that party does not meet those time limits.

In light of the Respondent's failure to comply with the Show Cause Order, the Appeal of the Notice to Terminate and Fine by the Respondent is dismissed. It is hereby-

ORDERED that a Decision is entered against the Respondent which terminates its eligibility to participate in the student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended; and it is further

ORDERED that the Respondent immediately and in the manner provided by law pay fines in the amount of \$23,000 to the U.S. Department of Education.

Judge Ernest C. Canellos
Issued: October 4, 1994

Washington, D.C.