

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

In the Matter of

Docket No. 96-95-SF

PEDIGREE CAREER INSTITUTE, Student Financial Assistance Fine Proceeding

Respondent.

Appearances:

Kevin J. Hallinan, Owner/Director, Lynn, MA, for Pedigree Career Institute.

Jennifer L. Woodward, Esq., Office of the General Counsel, United States Department of Education, Washington, D.C., for Student Financial Assistance Programs.

Before:

Judge Ernest C. Canellos

DECISION

On July 1, 1996, the office of Student Financial Assistance Programs (SFAP), U.S. Department of Education (ED), issued a notice of intent to fine Pedigree Career Institute (Pedigree), Lynn, Massachusetts, \$20,000 pursuant to § 487(c)(3)(B) of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1094 (C)(3)(F), and 34 C.F.R. § 668.84. In response, on July 10, 1996, the President, acting for Pedigree, appealed and requested a hearing.

As the basis for the proposed fine action, SFAP claims that Pedigree failed to submit its Perkins Loan data to the National Student Loan Data System (NSLDS) by August 31, 1995, as directed by the Secretary pursuant to 34 C.F.R. § 668.14(b)(7). The notice also alluded to the fact that Pedigree persisted in failing to fulfill its filing obligations even after SFAP had notified it of its failure on three occasions.

The College simply defends itself with a *mea culpa* and an apology. Pedigree's owner points out that he had only recently purchased the school, the previous servicer was not retained, the new servicer did not assume responsibility for reporting requirements, and he was unaware of the failure to report the Perkins Loan data. The President conceded that he should have known of the failures and accepts responsibility for such failure, but argues that the fine is excessive, especially since Pedigree is a good school which will be required to close if I impose a substantial fine. Furthermore, he pointed out that Pedigree has withdrawn from the federal student financial assistance programs and has not enrolled any students in such programs since May 1995.

The procedures for fining an institution are enumerated in 34 C.F.R. § 668, Subpart G. The Secretary is authorized to impose a fine up to \$25,000 for each violation of program regulations. 34 C.F.R. § 668.84 (a)(1). In a fine proceeding, SFAP has the burden of persuasion. 34 C.F.R. § 668.88(c)(2). Based upon my review of the evidence in this case, and applying the statutory burden of proof, I find that Pedigree Career Institute did, in fact, violate the regulatory provisions

regarding the reporting of Perkins Loan data to the NSLDS. I will, therefore, impose an appropriate fine.

SFAP requests that I order a fine of \$20,000 for the reporting violation; however, I find that, on the facts of this case, a fine of \$1,000 is appropriate. I have determined that this fine is appropriate considering the nature of the offense, the circumstances, and the mitigating effect of Pedigree's small size. *See generally, In the Matter of Puerto Rico Technology and Beauty College, and Lamec, Inc.*, Docket No. 90-34-ST, U.S. Dep't of Educ. (June 11, 1993). I also note as significant that there was no evidence of fraud or intentional wrongdoing; the data finally was submitted on July 31, 1996, and Pedigree has voluntarily withdrawn its eligibility to participate in the federal student financial assistance programs. Finally, I give the benefit of the doubt to Pedigree and accept its uncontroverted explanation of why it delayed in finally reporting its Perkins Loan data to the NSLDS.

ORDER

On the basis of the foregoing findings and conclusions, it is hereby ORDERED that Pedigree Career Institute immediately and in a manner prescribed by law, pay a fine in the amount of \$1,000 to the United States Department of Education.

Ernest C. Canellos
Chief Judge

Dated: December 4, 1996

SERVICE

A copy of the attached initial decision was sent by certified mail, return receipt requested to the following:

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