

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

In the Matter of

Docket No. 98-39-SA

INTERNATIONAL BUSINESS COLLEGE,

Student Financial Assistance Proceeding

Respondent.

ACN: 069674077

Appearances:

Desi Cervantez, Financial Aid Director, International Business College, Lubbock, Texas, for Respondent.

Howard D. Sorensen, Esq., Office of the General Counsel, U.S. Department of Education, Washington, D.C., for the Student Financial Assistance Programs.

DECISION

On February 11, 1998, the Student Financial Assistance Programs (SFAP), U.S. Department of Education, issued a final audit determination in this case. By letter dated March 20, 1998, Respondent appealed finding # 10 of that determination.

On April 20, 1998, I issued an Order Governing proceeding wherein Respondent, as the party with the burden of proof, *see* 34 C.F.R. § 668.116(d) (1997), was ordered to file its initial brief and exhibits by May 21, 1998. No documents were filed by the Respondent in response to that order. On June 4, 1998, I issued an order for Respondent to show cause by July 6, 1998, as to why this proceeding should not be dismissed and a judgment entered upholding the final audit determination. The Order to Show Cause was sent to Respondent by certified mail, return receipt requested, addressed to Mr. Kirk Winters, President, International Business College, 4630 50th Street, Lubbock, Texas, 79414. The return receipt indicates that Respondent received the Order to Show Cause on June 8, 1998. Respondent has filed no documents or otherwise responded to the Order to Show Cause.

In accordance with my obligation to regulate the course of this proceeding and the conduct of the parties, I have the authority to terminate the hearing process and to issue a decision against the party if that party does not meet time frames established pursuant to my orders. 34 C.F.R. § 668.117(c)(3) (1997). As such, I find that Respondent's failure to file submissions in compliance with my orders warrants the termination of this proceeding. In addition, I have examined finding # 10 of the final audit determination and conclude that the finding sufficiently states allegations that require Respondent to carry its burden of proof. *See Sinclair Community College*, 75 Ed. Law Rep. 1296 (U.S. Dept. of Educ., 1991). Respondent's failure to submit any evidence to rebut the SFAP finding leaves me with no alternative but to find that Respondent has failed to carry its burden of proof establishing that the expenditures questioned by SFAP were proper and that it complied with all program requirements.

ORDERED, that finding # 10 of the final audit determination issued by SFAP on February 11, 1998, is affirmed.

Frank K. Krueger, Jr.
Administrative Judge

Dated: September 4, 1998

SERVICE

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

Mr. Kirk Winters, President
International Business College
4630 50th Street
Lubbock, TX 79414

Howard D. Sorensen, Esq.
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