

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

In the Matter of

Docket No. 02-45-SP

TRC JAN MAR BEAUTY ACADEMY,

Federal Student
Aid Proceeding

Respondent.

PRCN: 200220319244

Appearances: Brenda M. Spooner, Willie E. Ritter, TRC Jan Mar Beauty Academy, for Respondent.

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

Before: Richard I. Slippen, Administrative Judge

DECISION

On March 1, 2002, TRC Jan Mar Beauty Academy (TRC Jan Mar) appealed the U.S. Department of Education (Department), Office of Federal Student Aid's (FSA) Final Program Review Determination (FPRD) dated January 8, 2002. On May 20, 2002, I issued an Order Governing Proceedings directing TRC Jan Mar to file its brief and exhibits by June 26, 2002. TRC Jan Mar failed to comply with that order. On July 10, 2002, FSA filed a Motion for Default Judgment on the basis that TRC Jan Mar failed to comply with my May 20, 2002, Order. On July 12, 2002, I issued an Order to Show Cause as to why I should not issue a default judgment in this proceeding. TRC Jan Mar had until August 13, 2002, to respond. To date, TRC Jan Mar has failed to respond to my July 12, 2002, Order.

The January 8, 2002, FPRD charged that TRC Jan Mar violated the institutional eligibility requirements of Title IV of the Higher Education Act of 1965, as amended (Title IV), 20 U.S.C. § 1070 et seq. Specifically, TRC Jan Mar failed to file a close-out audit as required by 34 C.F.R. § 668.26. The FPRD states that TRC Jan Mar has not submitted a compliance audit covering the period from January 1, 1999, to December 15, 2000, the date the school lost its

eligibility to participate in the Title IV, HEA programs. FSA assessed liability for all Title IV funds received by the school during the unaudited period. This liability totaled \$437,298.

A school is required to submit a close-out audit within 45 days after the date the school's participation in the Title IV programs ends. This close-out audit covers the period from its last submitted audit to the date of closure. 34 C.F.R. § 668.26(b)(ii). It is a school's fiduciary responsibility to account for its expenditure of federal funds. *See In re Magic Touch Beauty Institute*, Docket No. 97-161-SP (July 2, 1998), certified by the Secretary (November 17, 1999). It is well-established by this tribunal that in the absence of a close-out audit, unless a school can otherwise account for the federal funds received, the school is liable for all Title IV funds received since the last submitted audit. *See In re BelzerYeshiva; In re Midland Career Institute*, Docket Nos. 96-140-SP and 96-141-SP, U.S. Dep't of Educ. (July 30, 1998); *In re Magic Touch Beauty Institute; In re Excelsis Beauty College*, Docket No. 98-108-SA, U.S. Dep't of Educ.

(October 4, 1999). In its March 1, 2002, submission, TRC Jan Mar acknowledged that the close-out audit for the school had not been done in accordance with prescribed procedures. Although TRC Jan Mar proposed that it would provide letters of engagement of auditors to handle audits for 1999 and 2000, it has failed to produce such letters or respond to this tribunal's orders.

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 the school's failure to file a brief as ordered warrants the termination of this proceeding. Further, after a review of the FPRD, I am convinced that the finding contained therein sufficiently states an allegation in a manner that would require TRC Jan Mar to carry its burden of proof in this proceeding. 34 C.F.R. § 668.116(d). Therefore, the FPRD is affirmed and the liability upheld

ORDER

On the basis of the foregoing, it is hereby ORDERED that TRC Jan Mar Beauty Academy pay to the U.S. Department of Education the sum of \$437,298.

Judge Richard I. Slippen

Dated: September 12, 2002

SERVICE

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

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