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

In the Matter of	**Docket No. 06-45-SP**
HOPE CAREER INSTITUTE,	Federal Student Aid Proceeding
Respondent.	PRCN: 2006-304-25094

Appearances: Ronald L. Holt, Esq., Kansas City, Missouri, for Hope Career Institute.

Russell B. Wolff, Esq., of the Office of the General Counsel, United States Department of Education, Washington, D.C., for Federal Student Aid.

Before: Judge Ernest C. Canellos

DECISION

Hope Career Institute (Hope) is a non-degree granting proprietary post secondary institution located in Ft. Lauderdale, Florida. It is accredited by the Council on Occupational Education (COE), and is eligible to participate in the various Federal Student Aid Programs that are authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV). 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* Within the U. S. Department of Education (ED), the Office of Federal Student Aid (FSA) is the organization that has cognizance over and administers these programs.

During the period of April 17-21, 2006, Institutional Reviewers from FSA's School Participation Team Atlanta conducted a program review at Hope that examined its administration of the Title IV programs for the 2004-05 and 2005-06 award years. The Area Case Director of the Atlanta Team issued a final program review report on May 19, 2006. This report detailed a number of problems uncovered during the on-site review. Because of the extent of these findings, Hope was required to perform a full file review of all Title IV eligible students to determine (1) which students held invalid diplomas that were used as a basis for eligibility for Title IV aid, and (2) if any student who withdrew had been overpaid. Hope dutifully complied and filed a report of its findings.

After it reviewed Hope's submission, on September 20, 2006, FSA issued a Final Program Review Determination (FPRD). Hope's appeal, dated October 23, 2006, is the subject of this proceeding. Hope's appeal is limited to a single finding, i.e. that the 30 students who were admitted to Hope on the sole basis of a certificate from Cornerstone Christian Correspondence School (Cornerstone) were ineligible to participate in Title IV programs because those certificates are not considered valid high school diplomas. Hope asserts that it has settled the other findings and that it agrees with FSA that $76,667, is the amount in issue for the finding that it has appealed.

The pertinent facts of this case are not complicated. Pursuant to the provisions of 34 C.F.R § 668.32, a student must possess a high school diploma or its equivalent or satisfactorily pass an authorized ability-to-benefit test to be eligible to receive Title IV aid. In the present case, Hope provided 30 students with Title IV aid on the basis of their possession of a certificate from Cornerstone, as enumerated above. Because of suspicions raised prior to the program review, FSA investigated and determined that Cornerstone was located in Georgia and that the State of Georgia did not recognize Cornerstone's certificate as a valid high school diploma. As a consequence, every student who was made eligible on the sole basis of that certification was deemed ineligible and all Title IV aid disbursed to him or her had to be returned to ED. In its appeal, Hope acknowledges that the certifications in question do not constitute high school diplomas, but argues that FSA's finding and demand should not be affirmed. It claims that it was unaware that the Cornerstone's certificates were invalid and it is entitled to accept a student's proffer that they possess a valid high school diploma. Also, Hope points out that its former owner against whom the allegations of wrongdoing are directed is no longer associated with the school and the new owners have expended or have committed to spend over $700,000.00 to satisfy claims against the school and FSA should not add to their burden by pursuing this claim.

In its responsive brief, FSA rejects Hope's claim of innocence and argues that there is ample evidence that Hope knew of the inadequacy of Cornerstone's credentials. In the alternative, FSA argues that Hope was on clear notice that the certifications were suspect and, therefore, it was incumbent on Hope to verify the efficacy of the documentation. FSA notes as significant that the fact that 30 students presented a credential from the same out-of-state institution at about the same time was so suspicious that it cried out for verification. More directly, FSA points out that there was clear evidence that the former owner of Hope was quite aware of the situation and further, that he recommended, or at least encouraged, the students to seek the credential from that "diploma mill." In furtherance of that scheme, applications to Cornerstone were available and provided to students seeking to establish eligibility at Hope's Admissions Office and Financial Aid Office. FSA also found significant the fact that these certifications were utilized at about the same period of time that Hope ceased to have a viable ability-to-benefit testing program (between October 4, 2005 and May 6, 2006), thereby corroborating the fact that the use of these inadequate certifications was knowingly and intentionally done to circumvent the requirements for student eligibility.

In considering this issue, I begin by noting that this proceeding is governed by regulations promulgated under Subpart H of the general provisions. 34 C.F.R. Part 668. It is

well established that in a Subpart H -- audit and program review proceeding, the institution possesses the burden

of proving by a preponderance of the evidence that the Title IV funds in issue were lawfully disbursed. In accordance with 34 C.F.R. § 668.116(d), to sustain its burden, the institution must establish, that (1) the questioned expenditures were proper and (2) the institution complied with program requirements.

After reviewing the record before me, I find that Hope has failed to live up to its fiduciary responsibilities in the manner in which it carried out the required process of assuring that only eligible students are disbursed Title IV funds. Hope's assertion that it had the right to use the Cornerstone certification as acceptable evidence of the possession of a valid high school diploma because it did not know or suspect that the credential was inadequate lacks credulity and is rejected by me. It is quite apparent and I find that these certifications were utilized despite the fact that Hope knew full well or at a minimum was on clear notice that they did not constitute an adequate basis for determining the respective students as Title IV eligible. As a consequence, I further find that Hope's liability is clear and it must return $76,667.00 to ED.[1] Hope's claim that it should not be liable for the financial aid dispensed to the fourteen students who either belatedly passed an ability-to-benefit test or graduated is rejected by me because to do otherwise would allow an institution to benefit from its wrongdoing. On that basis, I find my language in *In the Matter of Avalon Beauty College*, Docket No. 04-24-SP (December 10, 2004) to be inapposite.

ORDER

On the basis of the foregoing findings of fact and conclusions of law, it is hereby ORDERED that Hope Career Institute pay to the United States Department of Education the sum of $76,667.00.

Ernest C. Canellos
Chief Judge

Dated: January 15, 2008

[1] Whether Hope has any cause of action or claim against any of their current or former employees for this liability is not within my jurisdiction to decide or comment on.

SERVICE

A copy of the attached decision was sent to the following individuals by certified mail:

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