



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

In the Matter of

Docket No. 13-55-SP

MICHAEL'S SCHOOL OF BEAUTY,

Federal Student Aid
Proceeding

Respondent.

PRCN: 2012 3042 7897

Appearances: Rev. Barry Broadnax, for Michael's School of Beauty.

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

Before: Richard F. O'Hair, Administrative Judge

DECISION

Michael's School of Beauty (Michael's), a proprietary, post-secondary educational institution, was a participant in the federal student aid programs authorized under Title IV of the Higher Education Act of 1965 (Title IV), 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* The Office of Federal Student Aid (FSA) of the United States Department of Education (Department) administers these programs. On July 2, 2013, FSA issued Michael's a Final Program Review Determination (FPRD) assessing a liability of \$560,217 to the Department because of two program violations found to have occurred during the 2010-2011 and 2011-2012 award years. This amount represents all Title IV funds received by Michael's during those years. With its appeal of the FPRD, Michael's submitted full file reviews for those two findings and acknowledged a liability to the Department of \$79,432. FSA determined that the full file reviews were acceptable and concurs with the auditor's liability assessment, but also added an additional amount of \$1,819.75, which represents imputed interest on the original liability, thereby reducing its original demand in the FPRD to \$81,251.75.

Participants in the Title IV programs agree to establish and maintain a system of records which account for their receipt and expenditure of those program funds. This includes the responsibility to maintain general ledgers and subsidiary accounts which identify each program transaction and are separate from other institutional activity. Participants must also maintain the records in an organized manner, make them available for review by the Department, and reconcile their disbursement of those funds to demonstrate they satisfied their fiduciary duties in administering the Title IV programs. *See* 34 C.F.R. §§ 668.24(b) and (d); §668.82.

Findings #1 and #2 of the FPRD conclude Michael's could not properly account for its receipt and disbursement of Title IV funds, and required the institution to conduct full file reviews for the two award years and have an auditor attest to the file reviews. This was not accomplished prior to the completion of the FPRD, and, as a result, FSA determined that all funds disbursed to the students in question for the two award years were a liability. With its appeal of the FPRD, Michael's attached the properly attested, required 100% audit that identified specific regulatory violations and established a liability of \$79,432. Michael's does not contest the findings of this audit.

Following its review of the audit, FSA concluded that it is an acceptable determination of the disbursement of Title IV funds for which Michael's cannot properly account and FSA abandons its claim for a total return of the Title IV funds Michael's disbursed during those two award years. However, FSA makes an additional valid claim for \$1,819.75 in imputed interest on the admitted \$79,432 liability. This additional demand is well-recognized and has been frequently approved by this tribunal as an approved liability in instances such as this. *See In the Matter of Application of American Center for Technical Arts and Sciences*, Dkt. No. 04-52-SP, U.S. Dep't of Educ. (Sept. 30, 2011); *In the Matter of Tri-State College of Massotherapy*, Dkt. No. 12-53-SP, U.S. Dep't of Educ. (Jan. 9, 2013) (currently on appeal to the Secretary). Accordingly, I find that an additional assessment against Michael's of \$1,819.75 in imputed interest is appropriate.

In December 2012, FSA placed the institution on the Heightened Cash Monitoring 2 (HCM2) payment method. In its November 15, 2013, letter to this tribunal, Michael's requested that any HCM2 funds that may be owed to the school be used to off-set its final liability to the Department. I cannot grant this request. It is well settled that this tribunal does not have jurisdiction to order any such off-set. *See In the Matter of International Junior College*, Dkt. No. 07-52-SA, U.S. Dep't of Educ. (Sept. 24, 2008). Any requests Michael's may submit for reimbursement under the HCM2 payment method will be addressed by FSA in a separate transaction.

In conclusion, I approve that portion of the findings in the FPRD which are substantiated by the auditor's report, as well as the liability set out in that report. Additionally, I approve of the assessment of liability of \$1,819.75 for imputed interest. I decline to order any off-set of funds which may be due Michael's by virtue of its HCM2 payment method.

ORDER

On the basis of the foregoing, it is hereby **ORDERED** that Michael's School of Beauty pay \$81,251.75 to the U.S. Department of Education.

Judge Richard F. O'Hair

Dated: January 23, 2014

SERVICE

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

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