



UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

In the Matter of

**ELDORADO COLLEGES and ORANGE
COUNTY BUSINESS COLLEGE,**

Docket No. 95-139-ST

Student Financial Assistance
Termination and Fine Proceeding

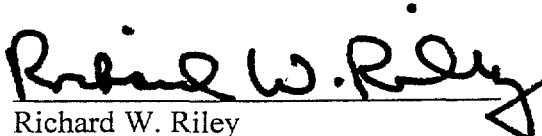
Respondents.

REMAND ORDER

This matter comes before the Secretary on Appeal of the Decision of Administrative Judge Ernest C. Canellos dated November 8, 1996. In his decision, Judge Canellos found that Respondent violated the regulatory provisions regarding the establishment of a fair and equitable refund policy, and the timely payment of refunds. Judge Canellos also decided that although the violations were serious, termination was not warranted since Respondent's actions were not pervasive and overwhelming. In the alternative, Judge Canellos issued fines totaling \$25,425.00, \$225.00 for each of the one hundred and thirteen (113) refund violations. In its Brief on Appeal, SFAP argues that in determining that Respondent's violations were not pervasive and overwhelming, Judge Canellos ignored refunds admittedly not paid by Respondent. SFAP Brief; p.11. SFAP alleges that Judge Canellos confused two of Respondent's reconstructions and therefore erroneously excluded numerous unpaid refunds. Specifically, SFAP argues that Judge Canellos relied upon Respondent's March 1994 reconstruction which reflected only one hundred and thirteen (113) violations, when a more recent reconstruction created in March of 1995 provided six hundred and eighty-nine unpaid refunds, showing an increase in violations over a period of time. SFAP contends that Respondent should be held accountable for the unpaid refunds most recently calculated.

Since the total fine was based upon each individual refund violation it is essential that the Initial Decision clearly reflect the evidence used to calculate the number of unpaid refunds. This reference was not included in Judge Canellos' decision. I therefore remand this matter to the Judge for a determination of what evidence was used to ascertain the total number of refund violations, and recalculate the fine, if necessary.

So ordered this 11th day of September, 1997


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Judge Ernest C. Canellos
Office of Hearings and Appeals