

In the matter of an appeal to the Commissioner under the Private Training Act,
[S.B.C. 2015], c.5 [PTA]

By

Westminster College

Decision

June 27, 2025

Introduction

1. This is an appeal by Westminster College (the “Appellant”) from a reconsideration decision of the Registrar of the Private Training Institutions Regulatory Unit, Ministry of Post-Secondary Education and Future Skills (the “Registrar”) dated January 28, 2025 (the “Reconsideration Decision”). The Reconsideration Decision upheld the imposition of an administrative monetary penalty (AMP) in the amount of \$1000 for contravening section 41(2) of the *Private Training Act*, [SBC 2015] Chapter 5, (the PTA”) by engaging in advertising and making representations that were found to be false and misleading.

Background

2. The provision of private career training in British Columbia is regulated under the PTA and associated regulations (the “Training Legislation”). An institution that wishes to offer training which is regulated by the Training Legislation must hold a certificate issued under the PTA and meet all applicable standards and requirements set out in the Training Legislation.
3. Westminster College, located at 200-10252 City Parkway, Surrey BC holds a certificate and is governed by the Training Legislation.
4. The Private Training Institutions Regulatory Unit (PTIRU) of the Ministry of Post-Secondary Education and Future Skills oversees the regulation of career training institutions that operate in British Columbia. The Registrar, appointed under section 57 of the PTA, is responsible for the administration of the Training Legislation including issuing certificates and enforcing the standards and requirements of the Training Legislation. The Training Legislation provides the Registrar with a range of enforcement tools, including the imposition of an AMP for certain legislated contraventions, pursuant to section 33 of the PTA.

The Inspection and Findings

5. On February 9, 2024, PTIRU conducted an inspection of the Appellant institution and, on June 26, 2024, issued an Inspections Findings letter (the “Inspection Findings”). As a result of the inspection, the PTIRU identified a number of areas of non-compliance which were detailed in the Inspection Findings. The Inspection Findings listed 15 areas of non-compliance. The Inspection Findings also listed the

requirement(s) that the Appellant must meet to remedy the contravention(s) or to verify that it was in compliance. The Appellant was given the opportunity to respond and did so.

6. The Appellant's response to the Inspections Findings, and in particular Contravention 13 of those findings was to confirm that its website had been updated to "remove all advertising making representations that are false and misleading".

The AMP

7. On November 6, 2024, following the response of the Appellant to the Inspections Findings the Registrar issued an AMP to the Appellant. The AMP related only to Contravention 13 in the Inspection Findings which states the following:

13. Institution is engaging in advertising or is making a representation that is false or misleading.

- The *About Us* section of the website includes the following statement reference to being the oldest training college in British Columbia.
- The *News and Updates* section of the website includes stock images of a large lecture hall and generic instructors as well as an false exterior image of another institution.
- The *Why Choose Westminster College* section of the website includes a video link to Harvard University. It is unclear what the purpose of video link is as there is no institution affiliation with Harvard University.
- The *Student Testimonials* section of the website includes testimonials from student not listed with PTIB. The names of the students do not appear on student data reports submitted to PTIB.

8. Following the response of the Appellant to the Inspection Findings, the finding relating to student testimonials was not included in the AMP assessment. The AMP letter however did identify an additional contravention on the Appellant's website as of November 6, 2024 which was "The website makes reference to Bachelor's and Master's programs, University life, graduate admissions and graduate programs. The institution is not authorized to confer degrees.". The Registrar found, on a balance of probabilities, that Appellant was contravening section 41(2) of the PTA by making false and misleading representations as set out in Contravention 13

including the additional finding false and misleading representation related to the website reference to conferring of degrees.

9. Pursuant to section 33 of the PTA and section 27(1)(e) of the *Fees and Student Tuition Protection Fund Regulation*, the Registrar issued an AMP in the amount of \$1000.

The Reconsideration Decision

10. On November 21, 2024 the Appellant sought a reconsideration of the Registrar's decision to impose the AMP pursuant to section 47(1)(b) of the PTA. The request for reconsideration was on the ground that evidence had become available that was not available at the time the AMP decision was made. (section 47(3) of the PTA)
11. On January 28, 2025, the Registrar issued the Reconsideration Decision. The Registrar confirmed that she conducted a *de novo* review of the AMP decision. The Registrar highlighted that the Training Legislation are consumer protection legislation designed to protect the interest of students and provide quality assurance. The Registrar noted that the Appellant acknowledged it had contravened section 41(2) of the PTA and that it had updated its website upon receipt of the AMP.
12. The Appellant's position on the reconsideration was that it had remedied the contravention immediately after the issuance of the AMP, that the institution had been recently purchased and that the stock images on its website had been posted by the previous owner. Further, that the required posting of the AMP on the PTIB Online Directory had negatively impacted the prospect of a sale.
13. The Registrar confirmed the original findings noting that the institution is responsible for compliance with the Training Legislation and cannot abdicate that responsibility by blaming previous owners. The Registrar acknowledged that the Appellant's website had been updated but that the contraventions, including the new one which remained at the time of issuance of the AMP were serious and required regulatory action to protect students. The Registrar dismissed the Appellant's position that there was new evidence that was not available at the time the decision to issue an AMP was made that justified the AMP not being confirmed

The Appeal of the Reconsideration Decision

14. On February 26, 2025, the Appellant delivered a Notice of Appeal (NOA) appealing the Reconsideration Decision. The NOA included a submission and a number of attached documents. In the NOA the Appellant sought the following relief:

- That the AMP be set aside or reduced.
- Certain Compliance Orders be set aside

15. On April 7, 2025, the Registrar wrote to note that the Appellant had not provided its written submission in accordance with the timeline established in Rule 16 of the *Commissioner's Rules of Practice and Procedure for Appeals under Division 2 of Part 5 of the Private Training Act* (the "Rules"). On April 9, 2025, I wrote to the parties to enquire of the Appellant if it wished to have the submission delivered with its NOA stand as its submission on appeal or if it wished to bring an application to extend the time for delivery of its written submission pursuant to Rule 35.

16. The Appellant responded advising that an extension was being sought on the basis that medical circumstances had delayed the Appellant's response. The Registrar took no position on the Appellant's request for an extension. On April 17, 2025, I granted an extension to Friday May 2, 2025, for the Appellant to deliver its written submission on the merits of the appeal. In the written decision, I reminded the Appellant that Rule 19 limits the submission to 30 pages (Rule 19) and also that appeals are on the record (Rule 11).

17. On April 15, 2025, the Appellant delivered its submission that included the original NOA, and 10 appendices. The covering letter stated that "New and compelling evidence has now come to light, which was not available at the time of the original decision." The relief sought was "...a reconsideration of this matter and the removal of both the Compliance Order and Administrative Penalty."

18. On April 25, 2025, I wrote to the parties. In that correspondence I advised the Appellant that to the extent that any of the documents contained in the 10 appendices to its submission were found in the Appeal Record, they must be identified as such because the Appeal Record was large as was the volume of the documents in the 10 appendices. If the Appellant wished to make an application for the consideration of new evidence it would have to be brought by May 1, 2025. The Appellant did not bring any application.

Discussion

19. Section 41(2) of the PTA states:

A certified institution must not engage in advertising or make a representation that is false, deceptive or misleading or otherwise prohibited by regulation.

20. Section 27(1)(e) of the *Fees and Student Tuition Protection Fund Regulation* (the “Fees Regulation”) provides that an institution that contravenes section 41(2) of the PTA is liable to an AMP of \$1,000.

21. Section 47(1)(b) of the PTA provides that a certified institution may request a reconsideration of an AMP. Reconsideration decisions affirming the AMP may be appealed to the Commissioner pursuant to section 50(1)(b) of the PTA.

22. The powers of the Commissioner on an appeal are set out in section 50(6) of the PTA as follows:

(6) The commissioner may make an order doing one or more of the following in respect of an appeal under this section:

- (a) dismissing the appeal;
- (b) allowing the appeal and giving any directions to the registrar that the commissioner considers appropriate in the circumstances;
- (c) varying the decision under appeal, including reducing the amount of an administrative penalty.

23. The position of the Appellant, as I understand it from the NOA is:

- 1. There is no evidence that the Appellant intended to mislead or misrepresent and therefore the AMP is unwarranted.
- 2. Corrective action was taken to remedy the contravention and prevent subsequent contraventions
- 3. The Appellant acted in good faith using reputable third-party web professionals.
- 4. The AMP imposed disproportionate harm, particularly the posting on the PTIB online registry. This also constitutes a breach of natural justice.
- 5. The Appellant has been cooperative.

24. The Registrar's position on the appeal is that the AMP was reasonable and justified in the circumstances and should be affirmed.
25. The Registrar says that Compliance Orders are not subject to appeal and, therefore any submission relating to those orders are not relevant to this appeal. I agree. The PTA does not provide any authority to the Commissioner to review, set aside or vary a Compliance Order. Therefore, there is no need to consider this request of the Appellant further in this appeal.
26. The Registrar also notes that in response to the Inspection Findings the Appellant did not dispute the findings in Contravention 13 relating to the first three items above, disputing only the finding relating to student testimonials. The Registrar accepted the Appellant's submissions in respect of the student testimonials contravention which was not a factor in the AMP decision.
27. The Registrar also notes, and it is not disputed by the Appellant, that the statements found to be contraventions set out in Contravention 13, other than those relating to student testimonials were still posted on November 6, 2024, the date that the AMP was issued. I am aware that the Appellant says that it took "...swift, comprehensive, corrective actions" upon notification by PTIB. However, there is no evidence contradicting the assertion in the November 6, 2024 AMP letter of the Registrar that the impugned information remained on the Appellant's website on that date. On the evidence before me, I am satisfied that the first 3 contraventions identified in Contravention 13 of the Inspection Findings remained on the Appellant's website on November 6, 2024, over 4 months later, as well as the additional contravention described above. Having made this finding, I do not need to consider the Registrar's position that even if corrective action had been taken in a timely way that the AMP was still justified.
28. The Registrar says that the argument of the Appellant that the AMP should be varied or rescinded because it did not have an intention to mislead students, was not deliberate or wilful and, further that it relied on third party website developers is irrelevant, relying on her statutory duty to ensure that institutions do not engage in false, deceptive or misleading advertising. She says that a contravention of section 41(2) of the PTA goes to the core of student protection. I agree with the Registrar's submission that the wording of section 41(2) of the PTA does not require the Registrar to establish that the Appellant intended to mislead the public, or that students were mislead.

29. I also want to address the Appellant's submission that PTIRU has previously reduced or rescinded penalties when institutions "acted quickly to rectify unintentional missteps" and "where the institution demonstrated it had taken steps to prevent further violations". The Registrar says that she is not aware of AMPs issued for similar contraventions being rescinded on reconsideration. I note that the Appellant did not provide any evidence to support its assertion. Following on my finding above, I also note that the contraventions were in place from at least the date of the Inspections Findings until November 6, 2024. In my view, given the consumer protection purpose of this legislation, it cannot be said that the Appellant acted quickly to correct the contraventions that were identified to it on June 26, 2024.
30. The Registrar also submits that pursuant to section 48(2) of the PTA she only has authority to rescind or affirm the AMP on a reconsideration of an AMP and does not have the authority to reduce the amount of an AMP which is established by the Fees Regulation. I agree. A plain reading of Section 48(2) of the PTA is that it only gives the Registrar on a reconsideration the ability to affirm or rescind the AMP and not to vary it
31. The Appellant did not provide any evidence of breaches of natural justice or procedural fairness in any actions or decisions of the Registrar, and I do not see any such evidence on the materials before me. In particular, the Appellant was able to make submissions on the Inspection Findings and on the reconsideration of the AMP.

Decision

32. The purpose of the PTA and related legislation is consumer protection and in particular protection of students. Potential students considering the statements of a private training institution should be able to rely on those statements as being accurate and correct. It is the duty of the Registrar to ensure that institutions do not engage in false, deceptive, or misleading advertising. In the present case, on the materials before me, I find that the AMP was reasonable and justified in the circumstances as was the Reconsideration Decision affirming it. As a result, the appeal of Westminster College is dismissed.



Maureen E. Baird, KC
Commissioner