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**Business Skills Inc. o/a Business Skills College of Technology
v. Superintendent under the Privacy Career Colleges Act, 2005**

Harris Rosen

Attached is a key Interim Decision of the License Appeal Tribunal and the first on record interpreting certain subsections of the Private Career Colleges Act, 2005 ("PCCA, 2005") which our Harris Rosen argued and won. In this case, the Tribunal agreed with the Applicant college's position that neither subsection 14(3) of the PCCA, 2005 nor any provision of the PCCA, 2005 expressly prohibits a college from having more than one private career college registration per location. The Superintendent erroneously granted two private career college registrations to the same owners/principals at the same location, and the owners/principals took the position that they could thereby sell the assets of two different "colleges". Held: the Tribunal upheld the Applicant college's position and lifted the Suspension which otherwise would have estopped the Applicant from selling both "colleges".

The Superintendent argued that one registration was nothing more than a "paper" or "phantom" college that did not exist, and that it was not in the public interest to have owners/operators sell "phantom" or "paper" colleges for the obvious and improper purpose of expediting the otherwise extensive wait period for Purchasers to register a new college without being able to purchasing existing, tried and tested programs. The Superintendent further argued that the principals of the college should not be entitled to sell the assets relating to more than one college registration from the same location. Being able to do so would maximize value for the principals of the Applicant since a Purchaser would pay valuable premium to expedite the wait period and eliminate the cost otherwise associated with a new application. The government appeared to be concerned with a floodgates issue i.e. an increased number of registrants trying to sell phantom or "paper" colleges to artificially expedite the Superintendent's approval process: although all Applicants must apply for a PCC license on their own steam and registrations are not "transferrable" under under s.16 of the PCCA, 2005, the Ministry's protocol is to expedite share and asset deals to ensure the seamless transition of students and protect the public interest.

As a practical matter, the Ministry won't grant a new Applicant more than one registration per location. But where it does so it may be implicitly allowing the registrant to sell those assets associated with both registrations. This decision should not therefore be taken to mean that the Ministry will allow multiple registrations per location any time soon. But it does beg for the first of what I suspect will be many amendments to the legislation and/or an immediate Policy Directive by the government restricting multiple registrations under the same roof where there is common ownership. The Vice-Chair also agreed with the college's, as opposed to the Superintendent's interpretation of section 16 of the PCCA, 2005 holding that a college can't be

culpable of "attempting" to transfer a license-- when the Act simply says is that the license is not capable of being transferred.

Please click on the link to read the decision - [Interim Decision of the Licence Appeal Tribunal](#)