

pursuant to Section 2.34 of its Rules, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34 (2003), the Commission hereby issues its Complaint, makes the following jurisdictional findings and issues the following Order:

1. Respondent Robert Lewis, an individual, is an attorney who represents indigent criminal defendants. His principal address is 430 NE Everett Street, Camas, WA 98607.
2. Respondent James Sowder, an individual, is an attorney who represents indigent criminal defendants. His principal address is 1600 Daniels, P.O. Box 27, Vancouver, WA 98666.
3. Respondent Gerald Wear, an individual, is an attorney who represents indigent criminal defendants. His principal address is 207 East 19th Street, Vancouver, WA 98663.
4. Respondent Joel R. Yoseph, an individual, is an attorney who represents indigent criminal defendants. His principal address is 1305 Main Street, Vancouver, WA 98660.
5. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. "Respondents" means Robert Lewis, James Sowder, Gerald Wear, and Joel R. Yoseph.
- B. "Payor" means any person or entity paying for indigent criminal defense services in the State of Washington.
- C. "Person" means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.
- D. "Principal address" means either (1) primary business address, if there is a business address, or (2) primary residential address, if there is no business address.

II.

IT IS FURTHER ORDERED that Respondents, directly or indirectly, or through any corporate or other device, in connection with the provision of legal services in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15

U.S.C. § 44, cease and desist from:

- A. Entering into, adhering to, participating in, maintaining, organizing, implementing, enforcing, or otherwise facilitating any combination, conspiracy, agreement, or understanding between or among any attorneys:
 - 1. To negotiate on behalf of any attorney with any Payor;
 - 2. To deal, refuse to deal, or threaten to refuse to deal with any Payor;
 - 3. Regarding any term, condition, or requirement upon which any attorney deals, or is willing to deal, with any Payor, including, but not limited to, price terms; or
 - 4. Not to deal individually with any Payor;
- B. Exchanging or facilitating in any manner the exchange or transfer of information among attorneys concerning any attorney's willingness to deal with a Payor, or the terms or conditions, including price terms, on which the attorney is willing to deal with a Payor;
- C. Attempting to engage in any action prohibited by Paragraph II.A or II.B above; and
- D. Encouraging, suggesting, advising, pressuring, inducing, or attempting to induce any person to engage in any action that would be prohibited by Paragraphs II.A through II.C above.

PROVIDED, HOWEVER, that, nothing in this Paragraph II shall prevent Respondents from:

- (i) Exercising rights under the First Amendment to the United States Constitution to petition any government body concerning legislation, rules or procedures;
- (ii) Providing information or views in a noncoercive manner to persons engaged in or responsible for the administration of any program to obtain legal services for persons eligible for appointed counsel.

III.

IT IS FURTHER ORDERED that Respondents shall:

- A. Within thirty (30) days after the date on which this Order becomes final:
 - 1. Send by first-class mail, with delivery confirmation, a copy of this Order and the Complaint to each attorney who signed the Indigent Defense Bar Consortium Contract; and
 - 2. Send by first-class mail, with delivery confirmation, a copy of this Order and the Complaint to each Payor that contracted with any Respondent for the provision of legal services to indigents; and
- B. File verified written reports within sixty (60) days after the date this Order becomes final, annually thereafter for three (3) years on the anniversary of the date this Order becomes final, and at such other times as the Commission may by written notice require. Each report shall include:
 - 1. A detailed description of the manner and form in which Respondents have complied and are complying with this Order;
 - 2. The name, address, and telephone number of each Payor with which Respondents have had any contact; and
 - 3. Copies of the delivery confirmations required by Paragraphs III.A.1 and III.A.2.

IV.

IT IS FURTHER ORDERED that each Respondent shall notify the Commission of any change in his principal address within twenty (20) days of such change.

V.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, Respondents shall permit any duly authorized representative of the Commission:

- A. Access, during office hours and in the presence of counsel, to inspect and copy all non-privileged books, ledgers, accounts, correspondence, memoranda, calendars, and other records and documents in their possession, or under their control, relating to any matter contained in this Order; and
- B. Upon ten (10) days' notice to Respondents, and in the presence of counsel, and without restraint or interference from Respondents, to interview Respondents or

the employees of Respondents.

VI.

IT IS FURTHER ORDERED that this Order shall terminate on July 23, 2024.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: July 23, 2004