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FEDERAL TRADE COMMISSION  
6

FILED  
CLERK, U.S. DISTRICT COURT  
DEC 22 2004  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY  
BY

7  
8 **UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
9 **WESTERN DIVISION**

10  
11 **FEDERAL TRADE COMMISSION,**  
12 **Plaintiff,**  
13 **v.**  
14 **JUBILEE FINANCIAL SERVICES,**  
15 **INC., et al**  
16 **Defendants**

17 CIVIL NO. <sup>W</sup>02-6468 ABC(Ex)

18 **STIPULATION AND**  
19 **~~Proposed~~ FINAL ORDER OF**  
20 **PERMANENT INJUNCTION**  
21 **AS TO DEFENDANT**  
22 **JEMUEL APELAR**

23 Plaintiff Federal Trade Commission ("FTC" or "Commission"), pursuant to  
24 Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §  
25 53(b), filed a complaint against Defendants **JUBILEE FINANCIAL SERVICES,**  
26 **INC.** ("Jubilee"), **JOHN E. GUSTAVSEN** ("Gustavsen"), **JABEZ FINANCIAL**  
27 **GROUP, INC.** ("Jabez"), and **CURTIS COBB** ("Cobb") for an injunction and  
28 other equitable relief and an *ex parte* application for a Temporary Restraining Order  
("TRO") with Asset Freeze, Appointment of a Temporary Receiver, Expedited  
Discovery, and Order to Show Cause Why a Preliminary Injunction Should Not  
Issue. A First Amended Complaint was filed which added a fourth count and added  
**GUSTAVSEN LEARNING CENTERS, INC.** ("GLC"), **JEMUEL APELAR**  
a.k.a. **JIM APELAR** ("Apelar"), **DEBT RELIEF COUNSELORS OF**  
**AMERICA, P.C.** ("DRCOA"), and **JOHN K. MITCHELL** ("Mitchell") as

1 defendants in this action.

2 Now Plaintiff Commission, negotiating through its counsel, and Defendant  
3 Apelar, through his counsel, have agreed to a settlement of this action.  
4 Accordingly, the Commission and Defendant Apelar consent to entry of this  
5 Stipulated Final Judgment and Order ("Order") without trial or adjudication of any  
6 issue of law or fact herein.

7  
8 **FINDINGS OF FACT**

9 1. Defendant Apelar was properly served with the Complaint, Summons  
10 and TRO in this matter.

11 2. Defendant Apelar was properly served with the First Amended  
12 Complaint and Summons in this matter.

13 3. This Court has jurisdiction over the subject matter of the case and  
14 personal jurisdiction over Defendant Apelar. Venue in the Central District of  
15 California is proper.

16 4. The alleged actions of Defendant Apelar are in or affecting commerce,  
17 as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

18 5. The Complaint states a claim upon which relief can be granted against  
19 the Defendants under Sections 5(a) and 13 (b) of the FTC Act, 15 U.S. C. § 45(a)  
20 and 53(b).

21 6. Plaintiff has the authority under Section 13(b) of the FTC Act, 15  
22 U.S.C. § 53(b), to seek the relief it has requested.

23 7. Defendant Apelar was an officer and a director of defendant Jubilee.

24 8. Defendant Apelar is the sole owner of a Nevada corporation called  
25 Trillanez Holdings, Inc. ("Trillanez").

26 9. In August 2001, defendant Apelar received a monetary bonus from  
27 Jubilee.

28 10. In August 2001, Trillanez received a monetary bonus from defendant

1 Jubilee.

2 11. The funds used to pay the bonuses to defendant Apelar and Trillanez  
3 came from funds controlled by defendant Jubilee.

4 12. Defendant Apelar waives all rights to seek judicial review or otherwise  
5 challenge or contest the validity of this Order. Defendant Apelar also waives any  
6 claim that he may hold under the Equal Access to Justice Act, 28 U.S.C. § 2412 (as  
7 amended), concerning the prosecution of this action to the date of this Order.

8 Defendant Apelar shall bear his own costs and attorneys' fees.

9 13. This Order is remedial in nature and shall not be construed as the  
10 payment of a fine, penalty, punitive assessment, or forfeiture.

11 14. Defendant Apelar enters into this Order freely and without coercion,  
12 and acknowledges that he understands the provisions of this Order and is prepared  
13 to abide by its terms.

14 15. Entry of this Order is in the public interest.

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16

## ORDER

17 For purposes of this Final Judgment and Order for Permanent Injunction, the  
18 following definitions shall apply:

19

### Definitions

20 1. "**Document**" is synonymous in meaning and equal in scope to the  
21 usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings,  
22 drawings, graphs, charts, photographs, audio and video recordings, computer  
23 records, and other data compilations from which information can be obtained and  
24 translated, if necessary, through detection devices into reasonably usable form. A  
25 draft or non-identical copy is a separate document within the meaning of the term  
26 "document."

27 2. The terms "**and**" and "**or**" shall be construed conjunctively or  
28 disjunctively as necessary, and to make the applicable phrase or sentence inclusive

1 rather than exclusive.

2 3. **“Corporate Defendants”** means Jubilee Financial Services, Inc.,  
3 Jabez Financial Group, Inc., Gustavsen Learning Centers, Inc. and Debt Relief  
4 Counselors of America, Inc., collectively.

5 4. **“Consumer”** means any person, including any individual, group,  
6 unincorporated association, limited or general partnership, corporation or other  
7 business entity.

8 5. **“Debtor”** means any consumer indebted to a creditor or creditors.

9 6. **“Debt negotiation”** means

10 a. the business or practice of receiving, in return for consideration, the  
11 scheduled receipt of a debtor’s monies, or evidences thereof, for the  
12 purpose of distribution among certain specified creditors in payment,  
13 or partial payment, of the debtor’s obligations; or

14 b. the business or practice of acting or offering or attempting to act as an  
15 intermediary between a debtor and his creditors for the purpose of  
16 settling, negotiating, or in any way altering the terms of payment of  
17 any debt of a debtor.

18 7. **“Assisting others”** means knowingly providing any of the following  
19 goods or services to another person or entity:

20 a. performing customer service functions, including, but not limited to,  
21 receiving or responding to consumer complaints; or

22 b. formulating or providing, or arranging for the formulation or provision  
23 of, any telephone sales script or any other marketing material; or

24 c. providing names of, or assisting in the generation of, potential  
25 customers; or

26 d. performing marketing services of any kind.

27

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1 I.

2 PERMANENT BAN.

3 IT IS THEREFORE ORDERED that Defendant Apelar, whether acting  
4 directly or through any corporation, limited liability company, subsidiary, division  
5 or other device, is hereby permanently restrained and enjoined from engaging in, or  
6 receiving any remuneration of any kind whatsoever from, or holding a majority  
7 ownership interest, share, or stock in, or serving as an officer, director, trustee, or  
8 general manager of, any business entity engaged in whole or in part in the  
9 advertising, marketing, promoting, offering for sale, or sale of debt negotiation  
10 services.

11 II.

12 PROHIBITED MISREPRESENTATIONS

13 IT IS FURTHER ORDERED that Defendant Apelar and his assignees,  
14 agents, attorneys, servants, employees and all persons or entities directly or  
15 indirectly under his control, and all other persons or entities in active concert or  
16 participation with them who receive actual notice of this Order by personal service  
17 or otherwise, whether acting directly or through any corporation, subsidiary,  
18 division or other device, in connection with the advertising, marketing, promoting,  
19 offering for sale, or sale of any good or service, are hereby restrained and enjoined  
20 from misrepresenting, or assisting others in misrepresenting, expressly or by  
21 implication, orally or in writing, any fact material to a consumer's decision to buy  
22 or accept the good or service, including but not limited to the ability to reduce the  
23 amount owed by a debtor to the creditor or their ability to have a positive effect on  
24 the debtor's credit report.

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**III.**

**SUSPENDED JUDGMENT**

**IT IS FURTHER ORDERED** that judgment is hereby entered against Defendant Apelar in the amount of \$2,628,535.00 (two million six hundred twenty-eight thousand five hundred thirty-five dollars), *provided*, however, that all of this amount except as described in Paragraph IV. A., IV. B. and IV. C. below, shall be suspended subject to the conditions set forth in Paragraph V. of this Order.

**IV.**

**MONETARY RELIEF AND CONSUMER REDRESS**

**IT IS FURTHER ORDERED** that:

A. As partial satisfaction of the monetary judgment ordered in Paragraph III, Defendant Apelar has delivered to the Receiver title to Apelar's entire interest in the real property which is located at 10504 Tremont Drive, Bellflower, California, 90706, and whose legal description is Lot 11 of Tract 50486 in the City of Bellflower, County of Los Angeles, State of California as per map recorded in book 1257, pages 20-21 inclusive of maps, in the office of the County recorder of said county (the "Tremont Property"), by way of quitclaim deed. Pursuant to a Stipulation between the parties, and entered by the Court, the Receiver has been authorized:

1. to liquidate the Tremont Property, in any reasonable manner with notice to the Commission and approval of the Court, and
2. to deposit the net proceeds from the liquidation of the Property (after payment of any fees or taxes) in an interest-bearing account.

The amount of the net proceeds from the liquidation less any fees and taxes shall be considered redress and shall be credited against the

1 amount of the suspended judgment owed by Defendant Apelar.

- 2 B. Upon the final disposition of this action (or sooner, upon motion by  
3 the Commission or the Receiver and further Order by this Court), said  
4 assets shall be either distributed as redress to consumers, or paid to the  
5 U.S. Treasury, if such distribution is deemed impractical.
- 6 C. All funds paid pursuant to this Paragraph shall be deposited into a fund  
7 administered by the Commission or its agent to be used for equitable  
8 relief, including but not limited to consumer redress and any attendant  
9 expenses for the administration of any redress fund. In the event that  
10 direct redress to consumers is wholly or partially impracticable or  
11 funds remain after redress is completed, the Commission may apply  
12 any remaining funds for such other equitable relief (including  
13 consumer information remedies) as it determines to be reasonably  
14 related to the practices alleged in the Complaint. Any funds not used  
15 for such equitable relief shall be deposited to the Treasury as  
16 disgorgement. Defendant Apelar shall have no right to challenge the  
17 Commission's choice of remedies under this paragraph.
- 18 D. The Commission and the Receiver shall have full and sole discretion  
19 to:
- 20 1. Determine the criteria for participation by individual claimants  
21 in any consumer redress program implemented pursuant to this  
22 Order;
  - 23 2. Determine the manner and timing of any notices to be given to  
24 consumers regarding the existence and terms of such programs;  
25 and
  - 26 3. Delegate any and all tasks connected with such redress program  
27 to any individual, partnerships, or corporations; and pay  
28 reasonable fees, salaries, and expenses incurred thereby from the

1 payments made pursuant to this Order;

2 E. Defendant Apelar expressly waives his right to litigate the issue of  
3 disgorgement. Defendant Apelar acknowledges and agrees that all  
4 money paid pursuant to this Order is irrevocably paid to the  
5 Commission for purposes of settlement between Plaintiff and  
6 Defendant Apelar; and

7 F. No portion of this payment shall be deemed a fine, penalty or punitive  
8 assessment, or forfeiture.

9  
10 V.

11 **RIGHT TO REOPEN AND TERMINATE SUSPENSION**

12 **IT IS FURTHER ORDERED** that the Commission's agreement to, and the  
13 Court's approval of, this Order is expressly premised upon the truthfulness,  
14 accuracy, and completeness of the sworn financial statements provided by  
15 Defendant Apelar to counsel for the Commission on or about March 1, 2004, and  
16 the sworn testimony given by Defendant Apelar on February 24 and June 17, 2004,  
17 which contain material information relied upon by the Commission in negotiating  
18 and agreeing to the terms of this Order. If, upon motion by the Commission to the  
19 Court, the Court finds that Defendant Apelar failed to disclose any asset with a  
20 value exceeding \$1,000, or materially misrepresented the value of any asset, or  
21 made any other material misrepresentation in or omission from the above-  
22 referenced financial statements and information, the suspension of the monetary  
23 judgment will be terminated and the entire judgment amount of \$2,628,535.00 (two  
24 million six hundred twenty eight thousand five hundred thirty five dollars), less any  
25 amounts Defendant Apelar has paid to the Commission will be immediately due  
26 and payable. Should this judgment be modified as to the monetary liability of  
27 Defendant Apelar, this Order, in all other respects, shall remain in full force. Any  
28 proceedings instituted under this Paragraph shall be in addition to, and not in lieu



1 of, any other proceedings the Commission may initiate to enforce this Order.  
2 Solely for the purposes of reopening this judgment or enforcing this Paragraph,  
3 Defendant Apelar waives any right to contest any of the allegations set forth in the  
4 Complaint filed in this matter or the monetary judgment referenced above.  
5

6 **VI.**

7 **CUSTOMER LISTS**

8 **IT IS FURTHER ORDERED** that Defendant Apelar, and his assigns,  
9 agents, servants, attorneys, employees, and all other persons or entities in active  
10 concert or participation with them who receive actual notice of this Order by  
11 personal service or otherwise, whether acting directly or through any corporation,  
12 subsidiary, division, or other device, are permanently restrained and enjoined from  
13 selling, renting, leasing, transferring, or otherwise disclosing the name, address,  
14 telephone number, credit card number, bank account number, e-mail address, or  
15 other identifying information of any person who paid any money to the Corporate  
16 Defendants at any time; *provided* that such identifying information may be  
17 disclosed to a law enforcement agency or as required by any law, regulation, or  
18 court order.  
19

20 **VII.**

21 **CEASE COLLECTIONS NOTICES TO CONSUMERS**

22 **IT IS FURTHER ORDERED** that Defendant Apelar, and his assigns,  
23 agents, servants, employees, attorneys, and all other persons or entities in active  
24 concert or participation with them who receive actual notice of this Order by  
25 personal service or otherwise, whether acting directly or through any corporation,  
26 subsidiary, division, or other device engaged in debt negotiation services, shall:

- 27 A. Cease all collection efforts on accounts arising from contracts,  
28 agreements, or understandings between the Corporate Defendants and

1 consumers, including but not limited to directing all third parties  
2 engaged in collection efforts regarding such accounts to cease all such  
3 collection activities and to cease furnishing any negative information  
4 to any consumer credit reporting agencies;

- 5 B. Within twenty (20) days after the date this Order is entered, return to  
6 consumers all uncashed checks or other negotiable instruments, if any,  
7 in Defendant Apelar's possession that have been received, directly or  
8 indirectly, on accounts arising from contracts, agreements, or  
9 understandings between the Corporate Defendants and consumers,  
10 including with each such returned check or other negotiable instrument  
11 a notice to the consumer stating that, as a result of an agreement  
12 between Defendant Apelar and the Commission settling allegations  
13 regarding Defendant Apelar's offer for sale and sale of debt negotiation  
14 services, those consumers' contracts are rescinded; and
- 15 C. Within sixty (60) days after the date this Order is entered, provide the  
16 names and addresses of those consumers to whom checks or other  
17 negotiable instruments were returned pursuant to Subsection B above  
18 to: Assistant Regional Director, WR-LA, Federal Trade Commission,  
19 10877 Wilshire Blvd., Suite 700, Los Angeles, California 90024.

20  
21 **VIII.**

22 **ACKNOWLEDGMENT OF RECEIPT**  
23 **OF ORDER BY DEFENDANT APELAR**

24 **IT IS FURTHER ORDERED** that Defendant Apelar, within five (5)  
25 business days of receipt of this Order as entered by the Court, must submit to the  
26 Commission a truthful sworn statement acknowledging receipt of this Order.

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**IX.**

**DISTRIBUTION OF ORDER BY DEFENDANT APELAR**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, Defendant Apelar shall deliver a copy of this Order to the principals, officers, directors, managers and employees under Defendant Apelar's control for any business that (a) employs or contracts for personal services from Defendant Apelar and (b) has responsibilities with respect to the subject matter of this Order. Defendant Apelar shall secure from each such person a signed and dated statement acknowledging receipt of the Order within thirty (30) days after the date of service of the Order or the commencement of the employment relationship.

**X.**

**RECORD KEEPING PROVISIONS**

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, in connection with any business where Defendant Apelar is the majority owner of the business or directly or indirectly controls the business, Defendant Apelar and his agents, attorneys, employees, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and the following records:

- A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title

1 or position; the date upon which the person commenced work; and the  
2 date and reason for the person's termination, if applicable;

- 3 C. Customer files containing the names, addresses, phone numbers, dollar  
4 amounts paid, quantity of items or services purchased, to the extent  
5 such information is obtained in the ordinary course of business;
- 6 D. Complaint and refund requests (whether received directly, indirectly or  
7 through any third party) and any responses to those complaints or  
8 requests; and
- 9 E. Copies of all sales scripts, training materials, advertisements, or other  
10 marketing materials.  
11

12  
13 **XI.**

14 **COMPLIANCE MONITORING**

15 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and  
16 investigating compliance with any provision of this Order,  
17

- 18 A. Within ten (10) days of receipt of written notice from a representative  
19 of the Commission, Defendant Apelar shall submit additional written  
20 reports, sworn to under penalty of perjury; produce documents for  
21 inspection and copying; appear for deposition; and/or provide entry  
22 during normal business hours to any business location in Defendant  
23 Apelar's possession or direct or indirect control to inspect the business  
24 operations;
- 25 B. In addition, the Commission is authorized to monitor compliance with  
26 this Order by all other lawful means, including but not limited to the  
27 following:  
28



1 telephone numbers, within ten (10) days of the date of  
2 such change;

3 b. Any changes in his employment status (including self-  
4 employment) within ten (10) days of the date of such  
5 change. Such notice shall include the name and address  
6 of each business that Defendant Apelar is affiliated with,  
7 employed by, or performs services for; a statement of the  
8 nature of the business; and a statement of his duties and  
9 responsibilities in connection with the business;

10 c. Any changes in his name or use of any aliases or fictitious  
11 names; and

12  
13 2. Defendant Apelar shall notify the Commission of any changes in  
14 corporate structure that may affect compliance obligations  
15 arising under this Order, including but not limited to a  
16 dissolution, assignment, sale, merger, or other action that would  
17 result in the emergence of a successor corporation; the creation  
18 or dissolution of a subsidiary, parent, or affiliate that engages in  
19 any acts or practices subject to this Order; the filing of a  
20 bankruptcy petition; or a change in the corporate name or  
21 address, at least thirty (30) days prior to such change, *provided*  
22 that, with respect to any proposed change in the corporation  
23 about which Defendant Apelar learns less than thirty (30) days  
24 prior to the date such action is to take place, he shall notify the  
25 Commission as soon as is practicable after obtaining such  
26 knowledge.

27 B. One hundred eighty (180) days after the date of entry of this Order,  
28 Defendant Apelar shall provide a written report to the FTC, sworn to

1 under penalty of perjury, setting forth in detail the manner and form in  
2 which he has complied and are complying with this Order. This report  
3 shall include, but not be limited to:

- 4 1. Any changes required to be reported pursuant to subparagraph  
5 (A) above;
- 6 2. A copy of each acknowledgment of receipt of this Order  
7 obtained by Defendant Apelar pursuant to Paragraph VIII;

8  
9 C. For the purposes of this Order, Defendant Apelar shall, unless  
10 otherwise directed by the Commission's authorized representatives,  
11 mail all written notifications to the Commission to:

12 Assistant Regional Director,  
13 Western Region, Los Angeles  
14 Federal Trade Commission  
15 10877 Wilshire Blvd., Suite 700  
16 Los Angeles, California 90024

17 Re: FTC v. JUBILEE FINANCIAL SERVICES, INC. ET AL,  
18 CV NO. 02-6468 ABC (Ex)

19 D. For purposes of the compliance reporting required by this Paragraph,  
20 the Commission is authorized to communicate directly with Defendant  
21 Apelar.

### 22 XIII.

#### 23 INDEPENDENCE OF OBLIGATIONS

24  
25 **IT IS FURTHER ORDERED** that the expiration of any requirements  
26 imposed by this Order shall not affect any other obligation under this Order.

27 //





XVII.

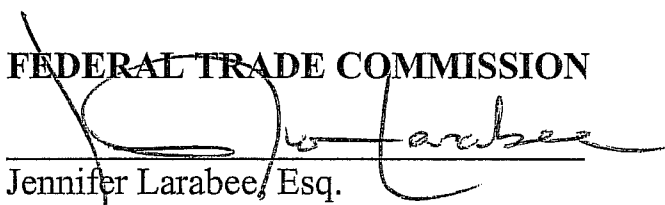
ENTRY BY CLERK

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Order.

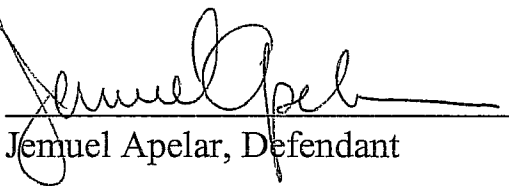
SO STIPULATED:

Dated: December 20, 2004

FEDERAL TRADE COMMISSION


  
Jennifer Larabee, Esq.  
Kenneth H. Abbe, Esq.  
Attorneys for Plaintiff

Dated: 7-11-04, 2004

  
Jemuel Apelar, Defendant

APPROVED AS TO FORM

Dated: 6.24.04, 2004

  
Robert K. Scott, Esq.  
Attorney for Defendant Apelar

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
United States District Judge

1 CERTIFICATE OF SERVICE

2 I, Kenneth H. Abbe, certify as follows:

3 I am over the age of 18 and am employed by the Federal Trade Commission. My business  
4 address is 10877 Wilshire Boulevard, Suite 700, Los Angeles, California 90024. On  
5 December 21, 2004, I caused the attached "STIPULATION AND [Proposed] FINAL  
6 ORDER OF PERMANENT INJUNCTION AS TO DEFENDANT JEMUEL APELAR" to  
7 be served by pre-paid, first class U.S. mail to the following:

8 Paul J. Carter, Esq.  
9 Bergkvist, Bergkvist & Carter  
10 400 Oceangate, Suite 800  
Long Beach, California 90802

COUNSEL FOR DEFENDANT  
JOHN K. MITCHELL

11 Susan I. Montgomery, Esq.  
12 5108 Wilderness Lane  
Culver City, CA 90230

COUNSEL FOR PERMANENT  
RECEIVER

13 Robert K. Scott, Esq.  
14 R.K. Scott & Associates  
2000 E. 4<sup>th</sup> St. #320  
15 Santa Ana, CA 92705


COUNSEL FOR DEFENDANT  
JEMUEL APELAR

16 Adrian B. Stern, CPA  
17 Clumeck, Stern  
17404 Ventura Blvd., 2nd Floor  
18 Encino, CA 91316

PERMANENT RECEIVER FOR  
DEFENDANTS JUBILEE FINANCIAL  
SERVICES, JABEZ FINANCIAL  
GROUP AND GLC

19 I declare under penalty of perjury that the foregoing is true and correct.

20  
21 Dated: December 21, 2004

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28 Kenneth H. Abbe