

ORIGINAL

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

<b>FEDERAL TRADE COMMISSION,</b>	)
	)
<b>Plaintiff,</b>	)
	)
v.	)
	)
<b>JOB RESOURCES, INC.,</b>	)
<b>a Tennessee limited liability company, and</b>	)
	)
<b>JEFFREY CHARLES LORD,</b>	)
	)
<b>Defendants.</b>	)

Case No. *3:06-0756*

**STIPULATED FINAL JUDGMENT AND PERMANENT INJUNCTION**

Plaintiff, Federal Trade Commission ("FTC" or the "Commission"), has commenced this action by filing the Complaint herein. The Complaint alleges that Defendants engaged in deceptive acts and practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with the advertising, offering for sale, or sale of employment goods or services. The parties have agreed to settlement of this action without adjudication of any issue of fact or law, and without Defendants admitting liability for any of the violations alleged in the Complaint.

THEREFORE, on the joint motion of the parties, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

## FINDINGS

1. This is an action by the FTC instituted pursuant to Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b). The Commission seeks both permanent injunctive relief and consumer redress against Defendants for alleged deceptive acts and practices in connection with the advertising, offering for sale, or sale of employment goods or services.

2. The FTC has the authority pursuant to Section 13(b) of the FTC Act to seek the relief it has requested and the Complaint states a claim upon which relief may be granted against the Defendants.

3. This Court has jurisdiction over the subject matter of this case and has personal jurisdiction over each Defendant. Venue in this district is proper.

4. The activities of Defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. Defendants have entered into this Stipulated Final Judgment and Permanent Injunction ("Order") freely and without coercion. Defendants further acknowledge that they have read or otherwise been fully advised of the provisions of this Order and are prepared to abide by them.

6. Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order, and further waive and release any claim Defendants may have against the FTC, its employees, and agents, including any rights that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412, amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996).

7. The parties shall each bear their own costs and attorneys' fees incurred in this action.

8. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.

9. Entry of this Order is in the public interest.

### **DEFINITIONS**

For the purpose of this Order, the following definitions shall apply:

1. "Asset" or "Assets" means any legal or equitable interest in, right to, or claim to, any real and personal property—including, but not limited to, chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, premises, contracts, mail or other deliveries, shares of stock, lists of consumer names, inventory, checks, notes, accounts, credits, receivables, funds, and all cash, wherever located.

2. "Assisting others" means providing any of the following goods or services to any person or entity: (a) performing customer service functions, including but not limited to receiving or responding to customer complaints; (b) formulating or providing, or arranging for the formulation or provision of, any telephone sales script or any other marketing material; (c) providing names of, or assisting in the generation of, potential customers; (d) performing marketing services of any kind; or (e) acting as an officer or director of a business entity.

3. "Corporate Defendant" means Job Resources, Inc., and by whatever name it might be known.

4. "Defendants" means Job Resources, Inc., and Jeffrey Charles Lord, and each of them by whatever names each might be known.

5. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from

which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

6. "Employment goods or services" means any item, product, good or service represented to assist consumers in obtaining employment, including but not limited to preparation or other training for any employment examination.

7. "Material" means likely to affect a person's choice of, or conduct regarding, goods or services.

8. "Person" means a natural person, organization or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.

9. "Record" means any document, as document is defined in definition 5 above, relating to the business or business practices of any Defendant.

10. The terms "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the applicable phrase or sentence inclusive rather than exclusive.

## **ORDER**

### **I. PROHIBITED BUSINESS ACTIVITY**

IT IS THEREFORE ORDERED that, in connection with the advertising, promotion, offering for sale, sale or distribution of any good or service, Defendants, as well as their successors and assigns, their officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, or other device, are hereby permanently restrained and

enjoined from:

- A. Misrepresenting, expressly or by implication, that Defendants are connected with or endorsed by the United States Postal Service;
- B. Misrepresenting, expressly or by implication, that postal positions are currently available in the geographic areas where Defendants' advertisements appear;
- C. Misrepresenting, expressly or by implication, that Defendants will supply consumers with materials that will enable them to pass the postal employment examination;
- D. Misrepresenting, expressly or by implication, that consumers who achieve a passing score on the postal employment examination are assured employment with the United States Postal Service; and
- E. Misrepresenting, expressly or by implication, any material fact regarding any good or service.

## II. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

- A. Judgment is hereby entered in favor of the Commission and against Defendants, jointly and severally, in the amount of Two Million, Ninety-Three Thousand, One Hundred and Eighty-Three Dollars (\$2,093,183), for the payment of equitable monetary relief - including, but not limited to, consumer redress and/or disgorgement, and for paying any attendant expenses of administration of any redress fund.
- B. Except as provided in Paragraph III of this Order, the Judgment shall be suspended if the following conditions are satisfied:
  - 1. The Corporate Defendant shall immediately on entry of this Order liquidate, for turn-over to the FTC or its designated representative, all assets held on

account for the Corporate Defendant by BancTek Solutions, 1660 Wynkoop Street, Suite 1050, Denver, Colorado 80202 ("BancTek").

2. The Corporate Defendant and the Court authorize and require BankTek to transfer to the FTC or its designated agent, within five (5) business days of the date of entry of this Order, all such assets held on account through wire transfer, per FTC instruction.

3. The Corporate Defendant, as well as its successors and assigns, officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with it who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, or other device, hereby forever waive, release, discharge, and disclaim all right, title, and interest in the assets held by BankTek.

C. Funds paid pursuant to this Paragraph shall be deposited into a fund administered by the FTC or its designated agent to be used for equitable relief, including, but not limited to, consumer redress and any attendant expenses for the administration of any redress fund. Defendants will cooperate fully to assist the FTC in identifying consumers who may be entitled to redress pursuant to this Order. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the FTC may apply any remaining funds for any other equitable relief (including consumer information remedies) that it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any funds not used for this equitable relief shall be deposited into the U.S. Treasury as disgorgement. Defendants shall have no right to challenge the FTC's choice of remedies under this Paragraph.

D. Defendants agree that the facts as alleged in the Complaint filed in this action

shall be taken as true for the purpose of any non-dischargeability action in a bankruptcy proceeding.

E. Defendants acknowledge and agree that the judgment entered pursuant to this Paragraph is equitable monetary relief, solely remedial in nature, and is not a fine, penalty, punitive assessment or forfeiture.

F. Defendants are hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the FTC their tax identification numbers, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

### **III. RIGHT TO REOPEN AS TO MONETARY JUDGMENT**

IT IS FURTHER ORDERED that:

A. By agreeing to this Order, Defendants reaffirm and attest to the truthfulness, accuracy, and completeness of Defendants' certified financial statements submitted to the FTC by Jeffrey Charles Lord on May 10, 2006 and the Corporate Defendant on June 2, 2006 (designated collectively as the "Financial Statements"). This Court's Order, and Plaintiff's agreement to enter into this Order, is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' financial condition, as represented in the Financial Statements referenced above, which contain material information upon which Plaintiff relied in negotiating and agreeing to the terms of this Order.

B. If, upon motion by Plaintiff, this Court finds that one or more Defendants failed to disclose any material asset, or materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from the Financial Statements, the Court shall reinstate the suspended judgment against such Defendant, in favor of the FTC, in the amount of \$2,093,183, which the Defendants and the FTC stipulate is the amount of consumer injury

jointly and severally caused by the Defendants, less any amounts paid to the FTC by Defendants pursuant to Paragraph II. B of this Order. *Provided, however,* that in all other respects, this Order shall remain in full force and effect unless otherwise ordered by the Court.

D. For purposes of this Paragraph, and any subsequent proceedings to enforce payment, including, but not limited to, a non-dischargeability complaint filed in a bankruptcy proceeding, the Defendants stipulate to all of the allegations in the FTC's Complaint.

E. Proceedings instituted under this Paragraph are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the FTC may initiate to enforce this Order.

#### IV. CONSUMER INFORMATION

IT IS FURTHER ORDERED that Defendants, and their successors and assigns, officers, agents, servants, employees, and attorneys, and all those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, or other device, are hereby permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, billing information (any data that enables any person to access another person's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account or debit card), e-mail address, or other identifying information of any consumer who paid any money to any Defendant, at any time prior to entry of this Order, in connection with the purchase of any employment good or service.

*Provided, however,* that Defendants may disclose such identifying information (i) to a law enforcement agency, or (ii) as required or authorized by any law, regulation, or court order.



## V. COMPLIANCE MONITORING

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

A. Within ten (10) days of receipt of written notice from a representative of the Commission, each Defendant shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in such Defendant's possession or direct or indirect control to inspect the business operation.

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:

1. Obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R Civ. P. 30, 31, 33, 34, 36 and 45;
2. Posing as consumers and suppliers to Defendants, Defendants' employees, or any other entity managed or controlled in whole or in part by Defendants, without the necessity of identification or prior notice.

C. Defendants shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to conduct subject to this Order. The person interviewed may have counsel present. *Provided, however,* that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

## **VI. COMPLIANCE REPORTING BY DEFENDANTS**

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order,
  1. Jeffrey Charles Lord shall notify the Commission of the following:
    - a. Any changes in residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
    - b. Any changes in employment status (including self-employment), and any change in ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that he is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of his duties and responsibilities in connection with the business or employment;
    - c. Any changes in his name or use of any aliases or fictitious names;and
  2. Defendants shall notify the Commission of any changes in corporate structure of the Corporate Defendant, or any business entity that Jeffrey Charles Lord directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such

change, *provided* that, with respect to any proposed change in the corporation about which a Defendant learns less than thirty (30) days prior to the date such action is to take place, the Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, each Defendant shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. For Jeffrey Charles Lord:
  - a. His then-current residence address, mailing addresses, and telephone numbers;
  - b. His then-current employment and business addresses and telephone numbers, a description of the business activities of each such employer or business, and his title or responsibilities for each such employer or business; and
  - c. Any other changes required to be reported under Subparagraph A of this Paragraph.
2. For all Defendants:
  - a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Paragraphs VIII and IX; and
  - b. Any other changes required to be reported under subparagraph A of this Paragraph.

C. For the purposes of this Order, Defendants shall, unless otherwise directed by the

Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director for Enforcement  
Federal Trade Commission  
601 New Jersey Ave., N.W.  
Washington, D.C. 20001  
Re: *FTC v. Job Resources, Inc., et al.*

D. For purposes of the compliance reporting required by this Order, representatives of the Commission are authorized to communicate directly with Defendants.

## VII. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, each Defendant, Job Resources, Inc., and Jeffrey Charles Lord, in connection with any business where (1) such Defendant is an officer, director, manager, or majority owner, or directly or indirectly manages or controls the business and where (2) the business engages, or assists others engaged in the marketing, advertising, promotion, offering for sale, or sale of employment goods or services, in or affecting commerce, and their agents, employees, officers, corporations, successors, 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 retain 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 or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;
- C. Customer files containing the names, addresses, phone numbers, dollar amounts

paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials; and

F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order, required by Paragraphs VIII and IX, and all reports submitted to the FTC pursuant to Paragraph VI.

#### **VIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendants shall deliver copies of the Order as directed below:

A. Corporate Defendant Job Resources, Inc. must deliver a copy of this Order to all of its principals, officers, directors, and managers. Job Resources, Inc. also must deliver copies of this Order to all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within five (5) days of service of this Order upon the Corporate Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

B. For any business that Jeffrey Charles Lord controls, directly or indirectly, or in which he has a majority ownership interest, said Defendant must deliver a copy of this Order to the principals, officers, directors and managers of that business. Jeffrey Charles Lord must also deliver copies of this Order to all employees, agents, and representatives of that business who

engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within five (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

C. For any business where Jeffrey Charles Lord is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, Jeffrey Charles Lord must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

D. Defendants must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Part.

#### **IX. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

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

#### **X. COOPERATION WITH FTC COUNSEL**

IT IS FURTHER ORDERED that Defendant Jeffrey Charles Lord shall, in connection with *FTC v. Jeffrey Wayne Simmons*, No. 3-06-0043 (M.D. Tenn. Jan. 20, 2006), and any subsequent investigation related to or associated with the transactions or the occurrences that are the subject of the FTC's Complaint in the case of *FTC v. Jeffrey Wayne Simmons*, No. 3-06-0043 (M.D. Tenn. Jan. 20, 2006), cooperate in good faith with the FTC and appear at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the FTC. If requested in writing by the FTC, Defendant Jeffrey Charles

Lord shall appear and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or occurrences that are the subject of the Complaint in that case, without the service of a subpoena.

**XI. RETENTION OF JURISDICTION**

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification and enforcement of this Order.

SO ORDERED this 18<sup>th</sup> day of August, 2006.

  
UNITED STATES DISTRICT JUDGE