

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CAREER HOTLINE, INC.,
a Florida corporation,
SUSAN L. BRIGHT, individually and as an
officer of **CAREER HOTLINE, INC.**, and
d/b/a **UNIQUE FLOWERS,**

Defendants.

Case No: 8:09-cv-1483-T-17TGW

**FINAL ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT AS TO
DEFENDANT CAREER HOTLINE,
INC.**

On August 11, 2009, the plaintiff, Federal Trade Commission ("FTC" or "Commission"), pursuant to Sections 5(a) and 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), filed its Complaint for Injunctive and Other Equitable Relief [D.E. 1], charging the defendants, Susan L. Bright and Career Hotline, Inc., with engaging in deceptive acts and practices in violation of Section 5 of the FTC Act. The FTC applied *ex parte* for a Temporary Restraining Order ("TRO") and for an Order to Show Cause Why a Preliminary Injunction Should Not Be Granted [D.E. 5] pursuant to Rule 65(b) of the Federal Rules of Civil Procedure. That same day, the Court granted the FTC's application and entered a TRO and Order to Show Cause against the defendants [D.E. 8]. On September 8, following a hearing at which defendant Susan Bright appeared, *pro se*, on behalf of herself and Career Hotline and did not contest the entry of a preliminary injunction, the Court entered a preliminary injunction against the defendants [D.E. 25].

On November 9, the Commission filed a request for Clerk's entry of default against Career Hotline, the corporate defendant, for failure to obtain legal representation [D.E. 28]. The following day, the Clerk entered the default [D.E. 31]. The Commission has now filed a motion requesting that the Court enter a default judgment imposing a permanent injunction and monetary judgment against Career Hotline, pursuant to Federal Rule of Civil Procedure 55(b)(2). Having considered the motion and supporting memoranda and exhibits, it is **ORDERED AND ADJUDGED** that the Commission's motion is granted as follows:

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b);
2. Venue is proper in this District under 28 U.S.C. §§ 1391(c) and 15 U.S.C. § 53(b);
3. The activities alleged in the Complaint are in or affecting "commerce" as that term is defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
4. The facts that the Commission has stated in its Complaint, if true, would state a claim upon which relief may be granted under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b);
5. Career Hotline has been properly served with the summons and Complaint, as required by Federal Rule of Civil Procedure 4;
6. Career Hotline is an unrepresented corporation and cannot appear except through counsel. *See* Local Rule 2.03(e); *FTC v. Gem Merch. Corp.*, 1995 WL 623168, *1 (11th Cir. 1995); *Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985);
7. Career Hotline has made false or misleading statements in connection with the advertising, marketing, promotion, or offering of employment services in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a);

8. Career Hotline's total revenue from the conduct alleged in the Commission's Complaint amounts to seventy-five thousand dollars (\$75,000). This amount is readily ascertainable from Career Hotline's financial statements and supporting documents submitted to the Commission on September 4, 2009;
9. The Commission is entitled to equitable monetary relief against Career Hotline in the amount of \$75,000, which is the amount of consumer injury caused by this scheme;
10. Career Hotline is likely to continue to engage in the activities alleged in the Commission's Complaint unless it is permanently enjoined from such acts and practices; and
11. Entry of this Order is in the public interest.

ORDER

DEFINITIONS

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

1. **"Asset"** means any legal or equitable interest in, right to, or claim to, any real and personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," "notes" (as these terms are defined in the Uniform Commercial Code), and all chattel, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, reserve funds, and cash, wherever located.
2. **"Assisting others"** means knowingly providing any of the following goods or services to another entity: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any promotional material; (3) providing

names of, or assisting in the generation of, potential customers; (4) performing promotional or marketing services of any kind; or (5) processing credit and debit card payments.

3. **"Bright"** means defendant Susan L. Bright, individually and as an officer of Career Hotline, Inc., and d/b/a Unique Flowers.
4. **"Career Hotline"** means defendant Career Hotline, Inc., a Florida corporation, and its successors and assigns.
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, Internet sites, Webpages, Websites, electronic correspondence, including e-mail and instant messages, photographs, audio and video recordings, contracts, accounting data, advertisements (including, but not limited to, advertisements placed on the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup postings, World Wide Web pages, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, and other data compilations from which information can be obtained and translated. A draft or non-identical copy is a separate document within the meaning of the term.
6. **"Plaintiff"** or **"Commission"** or **"FTC"** means the Federal Trade Commission.
7. The words **"and"** and **"or"** shall be understood to have both conjunctive and disjunctive meanings.

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CONDUCT PROHIBITION

I.

PROHIBITION AGAINST VIOLATION OF SECTION 5(a) OF THE FTC ACT

IT IS THEREFORE ORDERED that, in connection with the advertising, marketing, promotion, or offering of employment services, Career Hotline, and each of its members, officers, agents, servants, and employees, and those persons 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, affiliate or other device, is hereby permanently restrained and enjoined from making, expressly or by implication, any false or misleading statement or misrepresentation of material fact, or assisting others in the same, including, but not limited to:

- A. the availability of current or local job openings;
- B. the availability of job openings that offer specific salaries, benefits, or work schedules;
- C. access to unlisted or exclusive job openings;
- D. that consumers will obtain job interviews;
- E. that consumers will obtain or are likely to obtain employment; or
- F. that consumers who do not obtain employment will receive a refund of any fee consumers paid for employment services.

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II.

MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

- A. Career Hotline is liable to the Commission for seventy-five thousand dollars (\$75,000), which the Commission alleges is the amount of injury suffered by consumers, and the Commission is awarded a monetary judgment in this amount.
- B. The following financial institution shall immediately remit the entire amount of assets held in the listed account, in the name of Career Hotline, to the Commission:
 - 1. \$165.51 with Regions Bank (account number ending in xxxxxx2672).
- C. Payment shall be made to the Commission by certified check(s) or other guaranteed funds payable to the Federal Trade Commission, Financial Management Office, or by wire transfer in accordance with directions provided by the Commission. The check(s) or written confirmation of the wire transfer(s) shall be delivered to: Associate Director, Division of Marketing Practices, 600 Pennsylvania Avenue, N.W., Room 286, Washington, D.C. 20580.
- D. The transfer of the funds identified in Section II.B. shall partially satisfy the judgment against Career Hotline. The Commission may execute on the remaining portion of the judgment pursuant to Federal Rule of Civil Procedure 69.
- E. All funds paid to the Commission pursuant to the Order shall be deposited into an account administered by the Commission or its agent to be used for equitable relief, including but not limited to consumer redress, and any attendant expenses for the administration of such equitable relief. In the event that direct redress to

consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Career Hotline's practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Career Hotline shall have no right to challenge the Commission's choice of remedies under this Section. Career Hotline shall have no right to contest the manner of distribution chosen by the Commission.

- F. Career Hotline relinquishes all dominion, control, and title to the funds paid to the fullest extent permitted by law. Career Hotline shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.
- G. Proceedings instituted under this Section 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 Commission may initiate to enforce this Order.

III.

ORDER PROVISION REGARDING CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Career Hotline, and each of its successors, assigns, members, officers, agents, servants, and employees, and all other persons in active concert or participation with it who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from:

- A. disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account

(including a credit card, bank account, or other financial account), of any person which Career Hotline obtained prior to entry of this Order in connection with the advertising, marketing, promotion, or offering of employment services; and

- B. failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

IV.

LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze of assets set forth in the Preliminary Injunction, entered by this Court on September 8, 2009, shall be lifted to the extent necessary to turn over Career Hotline's assets as required by Section II.B. of this Order, and upon completion of the turn-over, shall be lifted permanently.

V.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of (i) monitoring and investigating compliance with any provision of this Order, and (ii) investigating the accuracy of Career Hotline's financial statements upon which the Commission's agreement to this Order is expressly premised:

- A. Within ten (10) days of receipt of written notice from a representative of the Commission, Career Hotline shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in Career Hotline's possession or direct or indirect control to inspect the business operation;
- B. In addition, the Commission is authorized to use all other lawful means, including but not limited to:
 - 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, 45 and 69;
 - 2. having its representatives pose as consumers and suppliers to Career Hotline, its employees, or any other entity managed or controlled in whole or in part by Career Hotline, without the necessity of identification or prior notice; and
- C. Career Hotline 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 any 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

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, Career Hotline shall notify the Commission of any changes in its structure, or any business entity that it directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to such change, provided that, with respect to any such change in the business entity about which Career Hotline learns less than thirty (30) days prior to the date such action is to take place, it 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 and annually thereafter for a period of five (5) years, Career Hotline shall provide a written report to the FTC, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which she has complied and is complying with this Order. This report shall include, but not be limited to:
 1. A copy of the acknowledgment of receipt of this Order, obtained pursuant to the Section titled "Distribution of Order;" and

2. Any other changes required to be reported under Subsection A of this Section.
- C. Career Hotline shall notify the Commission of the filing of a bankruptcy petition by it within fifteen (15) days of filing.
- D. For the purposes of this Order, Career Hotline shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier all reports and notifications required by this Order to the Commission, to the following address:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room NJ-2122
Washington, D.C. 20580
Re: FTC v. Career Hotline, Inc., and Susan L. Bright
Case No.: 8:09-CV-1483-T-17TGW

Provided that, in lieu of overnight courier, Career Hotline may send such reports or notifications by first-class mail, but only if it contemporaneously sends an electronic version of such report or notification to the Commission at:

DEBrief@ftc.gov.

- E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Career Hotline.

VII.

RECORDKEEPING

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, Career Hotline, for any business for which it is the majority owner or directly or

indirectly controls, is 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, telephone 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 or indirectly, such as through a 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 the Sections titled "Distribution of Order" and "Acknowledgment of Receipt of Order" and all reports submitted to the FTC pursuant to the Section titled "Compliance Reporting."

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VIII.

DISTRIBUTION OF ORDER

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

- A. Career Hotline must deliver a copy of this Order to (1) all of its principals, officers, directors, and managers; (2) all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon Career Hotline. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure.
- B. Career Hotline must secure a signed and dated statement acknowledging receipt of this Order, within thirty (30) days of delivery, from all persons receiving a copy of this Order pursuant to this Section.

IX.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that Career Hotline, 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.

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X.

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 29th day of JANUARY, 2010, at 12:01pm., Eastern Standard Time.



ELIZABETH A. KOVACHEVICH
United States District Judge

ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies to:
All parties and counsel of record