

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

**JEFFREY WAYNE SIMMONS,
a/k/a “WAYNE SIMMONS,”
a/k/a “WAYNE STEVENS,”**

**CAREER SUCCESS, LLC,
a Tennessee limited liability company,**

**INFORMATION RESOURCES OF
NASHVILLE, LLC,
a Tennessee limited liability company,**

Defendants.

Case No. 3:06-0043

Judges Echols/Brown

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission (“Commission”), for its complaint alleges:

1. The Commission brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to secure preliminary and permanent injunctive relief, rescission of contracts, restitution, disgorgement, and other equitable relief for Defendants’ deceptive acts or practices in connection with the selling of employment goods and services in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §§ 1331(a), 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

3. Venue in the United States District Court for the Middle District of Tennessee is proper under 28 U.S.C. § 1391(b) and (c) and 15 U.S.C. § 53(b).

THE PARTIES

4. Plaintiff Federal Trade Commission is an independent agency of the United States government created by the FTC Act, 15 U.S.C. §§ 41-58. The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The Commission, through its own attorneys, may initiate federal district court proceedings to enjoin violations of the FTC Act and to secure such equitable relief, including rescission of contracts and restitution, and the disgorgement of ill-gotten gains caused by Defendants' law violations, as may be appropriate in each case. 15 U.S.C. § 53(b).

5. Defendant Jeffrey Wayne Simmons, a/k/a "Wayne Simmons," a/k/a "Wayne Stevens," is the owner or operator of Defendants Career Success, LLC, and Information Resources of Nashville, LLC. Individually or in concert with others, he directs, controls, formulates or participates in the acts and practices set forth herein. He resides, transacts, or has transacted business in this district.

6. Defendant Career Success, LLC ("Career Success") is a Tennessee limited liability company with its principal place of business listed as 1420 Donelson Pike, Suite B-12, Nashville, Tennessee 37217. Defendant Career Success also has used a mailing address of P.O.

Box 17225, Nashville, Tennessee 37217. Defendant Career Success transacts or has transacted business in this district.

7. Defendant Information Resources of Nashville, LLC (“Information Resources”) is a Tennessee limited liability company with its principal place of business listed as 1420 Donelson Pike, Suite B-12, Nashville, Tennessee 37217. Defendant Information Resources also has used a mailing address of P.O. Box 17187, Nashville, Tennessee 37217. Defendant Information Resources transacts or has transacted business in this district.

COMMERCE

8. The acts and practices of Defendants, alleged in this Complaint, are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS PRACTICES

9. Since at least 2005, Defendants have conducted a nationwide advertising and telemarketing scheme to sell purported employment goods and services to consumers residing throughout the United States.

10. Defendants place classified advertisements in the employment sections of local newspapers or community gazettes located throughout the United States. The advertisements announce that the solicitor is now hiring for postal jobs with wages ranging from, e.g., \$17.50-\$59.00 plus per hour, full federal benefits, vacations and paid training. The advertisements invite readers to call a toll-free number for more information. The following are illustrative of the advertisements placed by Defendants:

***ANNOUNCEMENT* HIRING for 2005 POSTAL POSITIONS \$17.50-\$59.00 plus+ hour. Full benefits. Paid Training and Vacations. No Experience Necessary. Green Card OK CALL 1-866-329-0801**

Postal Jobs **NOW HIRING 2005 POSTAL JOBS** \$16.20-\$58/hr No Experience Necessary Green Card OK. 1-866-329-0801 x399

Hiring for 2005 Postal Positions \$16.20 -\$58/hour No Experience Necessary *Green Card O.K. 1-866-329-0801 Ext 330 fee

NOW HIRING for 2005 Postal Jobs \$16.20 to \$39.00 per hour. Full benefits, Paid Training, Vacation. No Experience Necessary. Green Card Ok. call 1-866-303-7737 ext. 4994.

ANNOUNCEMENTS Hiring for 2005 Postal Positions!! \$17.50-\$59.00 plus/hour. Full Benefits. Paid Training & Vacations. No Exp. Necessary. Green Card O.K.! 1-866-714-8894 ext. 900.

Hiring for 2005 Postal Positions!! \$17.50-\$59.00 hour. Full Benefits. Paid training and vacations. No experience necessary. Green Card O.K. 1-866-714-8894 x210.

Hiring 2005 Postal Positions!! \$17.50-59.00 + per hour. Full benefits. Paid Training & vacation No Experience Necessary. Green Card O.K.! 1-866-714-8894 ext. 5075.

11. When consumers call the toll-free number, Defendants first ask consumers questions about their age, education, citizenship, ability to pass a drug screen and criminal background check, and then tell consumers that they are “qualified.” Defendants then describe to consumers that positions, e.g., sorters, clerks, and carriers, are currently available and are in the geographic area where consumers live. Defendants describe to consumers a range of average hourly wages paid for these positions and state that the positions come with full federal benefits, paid training and vacations. Defendants explain that consumers must pass a postal employment test before they can be hired. Defendants then tell consumers that they will provide consumers with mate

to pass the exam, including exact information on the exam. In addition, Defendants tell consumers that the examinations are held regularly and that specific dates and places for testing will be provided. Likewise, defendants tell consumers that they will provide them with the same information that appears on the exam.

12. Defendants tell consumers that there is a one-time “registration fee” which callers are required to pay. The “registration fee” that is quoted ranges from approximately \$128.80 to \$168.20. Defendants also tell consumers that the “registration fee” is fully refundable if, for any reason, consumers do not pass the exam or obtain a postal position.

13. In return for their money, consumers receive a written guarantee, which states that it is given because Defendants are “so confident that consumers will pass the exam by using [their] product.” Consumers also receive an application for employment, and a booklet entitled “Postal Exam Prep Guide . . . For the Current Postal Battery Exam 460 & 470” (“Exam Guide”).

The Exam Guide also states on its cover, “Guaranteed Results! Get Your Money Back if You Don't Pass.”

VIOLATIONS OF SECTION 5 OF THE FTC ACT

15. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce.

16. Misrepresentations or omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

COUNT I

17. Defendants represent, expressly or by implication, that they are connected with or endorsed by the United States Postal Service.

18. In truth and in fact, Defendants are not connected with or endorsed by the United States Postal Service.

19. Therefore, the representations set forth in paragraph 17 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

20. Defendants represent, expressly or by implication, that postal positions are currently available in the geographic areas where Defendants' advertisements appear.

21. In truth and in fact, in numerous instances, postal positions are not currently available in the geographic areas where Defendants' advertisements appear.

22. Therefore, the representations set forth in paragraph 20 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT III

23. Defendants represent, expressly or by implication, that Defendants will supply consumers with materials that will enable them to pass the postal employment examination.

24. In truth and in fact, Defendants do not supply consumers with materials that will enable them to pass the postal employment examination.

25. Therefore, the representations set forth in paragraph 23 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT IV

26. Defendants represent, expressly or by implication, that consumers who achieve a passing score on the postal employment examination are assured employment with the USPS.

27. In truth and in fact, consumers who achieve a passing score on the postal employment examination are not assured employment with the USPS.

28. Therefore, the representations set forth in paragraph 26 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

29. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of Defendants' violations of the FTC Act as set forth above. In addition, the Defendants have been unjustly enriched as a result of their unlawful acts and practices. Absent injunctive relief by this Court, the Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

31. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the court may deem appropriate to halt and redress violations of the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award other ancillary relief, including but not limited to, rescission of contracts and restitution, and the disgorgement of ill-gotten gains, to prevent and remedy injury caused by Defendants' law violations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's equitable powers, requests that this Court:

(A) Award Plaintiff such preliminary and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action, and to preserve the possibility of effective final relief, including, but not limited to, a preliminary injunction, including an order freezing each Defendant's assets;

(B) Permanently enjoin Defendants from violating Section 5(a) of the FTC Act as alleged herein, including committing such violations in connection with the advertising, offering for sale, or other promotion of employment goods or services;

(C) Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of Section 5(a) of the FTC Act, including, but not limited to, rescission of contracts and restitution, and the disgorgement of ill-gotten gains by the Defendants; and

(D) Award Plaintiff the costs of bringing this action as well as such additional equitable relief as the Court may determine to be just and proper.

Dated: _____, 2006

Respectfully submitted,

WILLIAM BLUMENTHAL
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