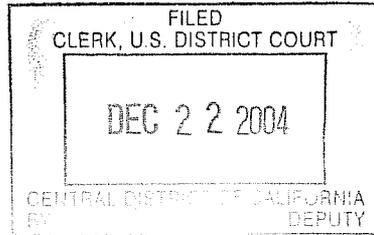


1 Jennifer Larabee, CA Bar No. 163989  
Kenneth H. Abbe, CA Bar No. 172416  
2 Federal Trade Commission  
10877 Wilshire Blvd., Ste. 700  
3 Los Angeles, CA 90024  
(310) 824-4343 (ph.)  
4 (310) 824-4380 (fax)

5 ATTORNEYS FOR PLAINTIFF  
FEDERAL TRADE COMMISSION  
6



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

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

17 *a/*  
CIVIL NO. 02-6468 ABC(Ex)

18 **STIPULATION AND**  
19 **[Proposed] FINAL ORDER OF**  
20 **PERMANENT INJUNCTION**  
21 **AS TO DEFENDANT**  
22 **JOHN MITCHELL**

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

6

7

**FINDINGS OF FACT**

8 1. Defendant Mitchell was properly served with the First Amended  
9 Complaint and Summons in this matter.

10 2. This Court has jurisdiction over the subject matter of the case and  
11 personal jurisdiction over Defendant Mitchell. Venue in the Central District of  
12 California is proper.

13 3. The alleged actions of Defendant Mitchell are in or affecting  
14 commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

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

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

20 6. Defendant Mitchell has not admitted to liability as to the charges in the  
21 Complaint, and his consent to entry of this permanent injunction shall not be  
22 interpreted to constitute an admission by him that he has engaged in any violations  
23 of any law or regulations.

24 7. Defendant Mitchell waives all rights to seek judicial review or  
25 otherwise challenge or contest the validity of this Order. Defendant Mitchell also  
26 waives any claim that he may hold under the Equal Access to Justice Act, 28 U.S.C.  
27 § 2412 (as amended), concerning the prosecution of this action to the date of this  
28 Order. Defendant Mitchell shall bear his own costs and attorneys' fees.





1 negotiation services. For purposes of this provision only, a creditor does not  
2 include a person, or entity, with whom a consumer, or debtor, has a bona fide  
3 dispute.

4  
5 **II.**

6 **PROHIBITED MISREPRESENTATIONS**

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

19  
20 **III.**

21 **SUSPENDED JUDGMENT**

22 **IT IS FURTHER ORDERED** that judgment is hereby entered against  
23 Defendant Mitchell in the amount of \$2,628,535.00 (two million six hundred  
24 twenty-eight thousand five hundred thirty-five dollars), *provided*, however, that all  
25 of this amount shall be suspended subject to the conditions set forth in Paragraph  
26 IV. of this Order.

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IV.

**RIGHT TO REOPEN AND TERMINATE SUSPENSION**

**IT IS FURTHER ORDERED** that the Commission's agreement to, and the

Court's approval of, this Order is expressly premised upon the truthfulness,

accuracy, and completeness of the sworn financial statements provided by

Defendant Mitchell to counsel for the Commission on or about November 5, 2003,

and the sworn testimony given by Defendant Mitchell on March 11, 2003, which

contain material information relied upon by the Commission in negotiating and

agreeing to the terms of this Order. If, upon motion by the Commission to the

Court, the Court finds that Defendant Mitchell failed to disclose any asset with a

value exceeding \$1,000, or materially misrepresented the value of any asset, or

made any other material misrepresentation in or omission from the above-

referenced financial statements and information, the suspension of the monetary

judgment will be terminated and the entire judgment amount of \$2,628,535.00 (two

million six hundred twenty-eight thousand five hundred thirty-five dollars) will be

immediately due and payable. Should this judgment be modified as to the monetary

liability of Defendant Mitchell, this Order, in all other respects, shall remain in full

force. Any proceedings instituted under this Paragraph shall be in addition to, and

not in lieu of, any other proceedings the Commission may initiate to enforce this

Order. Solely for the purposes of reopening this judgment or enforcing this

Paragraph, Defendant Mitchell waives any right to contest any of the allegations set

forth in the Complaint filed in this matter or the monetary judgment referenced

above.

V.

**CONSUMER REDRESS**

**IT IS FURTHER ORDERED** that:

A. All funds paid pursuant to this Order shall be deposited into a fund

1 administered by the Commission or its agent to be used for equitable  
2 relief, including but not limited to consumer redress and any attendant  
3 expenses for the administration of any redress fund. In the event that  
4 direct redress to consumers is wholly or partially impracticable or  
5 funds remain after redress is completed, the Commission may apply  
6 any remaining funds for such other equitable relief (including  
7 consumer information remedies) as it determines to be reasonably  
8 related to the practices alleged in the Complaint. Any funds not used  
9 for such equitable relief shall be deposited to the Treasury as  
10 disgorgement. Defendant Mitchell shall have no right to challenge the  
11 Commission's choice of remedies under this paragraph.

12 B. The Commission and the Receiver shall have full and sole discretion  
13 to:

- 14 1. Determine the criteria for participation by individual claimants  
15 in any consumer redress program implemented pursuant to this  
16 Order;
- 17 2. Determine the manner and timing of any notices to be given to  
18 consumers regarding the existence and terms of such programs;  
19 and
- 20 3. Delegate any and all tasks connected with such redress program  
21 to any individual, partnerships, or corporations; and pay  
22 reasonable fees, salaries, and expenses incurred thereby from the  
23 payments made pursuant to this Order;

24 C. Defendant Mitchell expressly waives his right to litigate the issue of  
25 disgorgement. Defendant Mitchell acknowledges and agrees that all  
26 money paid pursuant to this Order is irrevocably paid to the  
27 Commission for purposes of settlement between Plaintiff and  
28 Defendant Mitchell; and

1 D. No portion of this payment shall be deemed a fine, penalty, punitive  
2 assessment, or forfeiture.  
3

4 VI.

5 CUSTOMER LISTS

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

18 VII.

19 CEASE COLLECTIONS NOTICES TO CONSUMERS

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

25 A. Cease all collection efforts on accounts arising from contracts,  
26 agreements, or understandings between the Corporate Defendants and  
27 consumers, including but not limited to directing all third parties  
28 engaged in collection efforts regarding such accounts to cease all such

1 collection activities and to cease furnishing any negative information  
2 to any consumer credit reporting agencies;

3 B. Within twenty (20) days after the date this Order is entered, return to  
4 consumers all uncashed checks or other negotiable instruments, if any,  
5 in Defendant Mitchell's possession that have been received, directly or  
6 indirectly, on accounts arising from contracts, agreements, or  
7 understandings between the Corporate Defendants and consumers,  
8 including with each such returned check or other negotiable instrument  
9 a notice to the consumer stating that, as a result of an agreement  
10 between Defendant Mitchell and the Federal Trade Commission  
11 settling allegations regarding Defendant Mitchell's offer for sale and  
12 sale of debt negotiation services, those consumers' contracts are  
13 rescinded; and

14 C. Within sixty (60) days after the date this Order is entered, provide the  
15 names and addresses of those consumers to whom checks or other  
16 negotiable instruments were returned pursuant to Subsection B above  
17 to: Assistant Regional Director, WR-LA, Federal Trade Commission,  
18 10877 Wilshire Blvd., Suite 700, Los Angeles, California 90024.

## 20 VIII.

### 21 ACKNOWLEDGMENT OF RECEIPT 22 OF ORDER BY DEFENDANT MITCHELL

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

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**IX.**

**DISTRIBUTION OF ORDER BY DEFENDANT MITCHELL**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, Defendant Mitchell shall deliver a copy of this Order to the principals, officers, directors, managers and employees under Defendant Mitchell's control for any business that (a) employs or contracts for personal services from Defendant Mitchell and (b) has responsibilities with respect to the subject matter of this Order. Defendant Mitchell 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 Mitchell is the majority owner of the business or directly or indirectly controls the business, Defendant Mitchell 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 Mitchell 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 Mitchell's possession or direct or indirect control to inspect the  
24 business 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 a. Any changes in his residence, mailing addresses, and  
2 telephone numbers, within ten (10) days of the date of  
3 such change;  
4 b. Any changes in his employment status (including self-  
5 employment) within ten (10) days of the date of such  
6 change. Such notice shall include the name and address  
7 of each business that Defendant Mitchell is affiliated with,  
8 employed by, or performs services for; a statement of the  
9 nature of the business; and a statement of his duties and  
10 responsibilities in connection with the business;  
11 c. Any changes in his name or use of any aliases or fictitious  
12 names; and  
13

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

28 B. One hundred eighty (180) days after the date of entry of this Order,

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

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

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

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

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

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

### 23 XIII.

### 24 INDEPENDENCE OF OBLIGATIONS

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  
28



**XVII.**

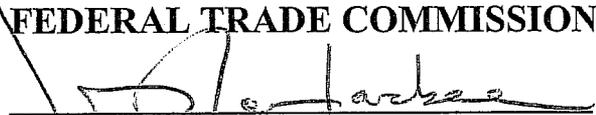
**ENTRY BY CLERK**

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: \_\_\_\_\_, 2004

\_\_\_\_\_  
John K. Mitchell, Defendant

**APPROVED AS TO FORM**

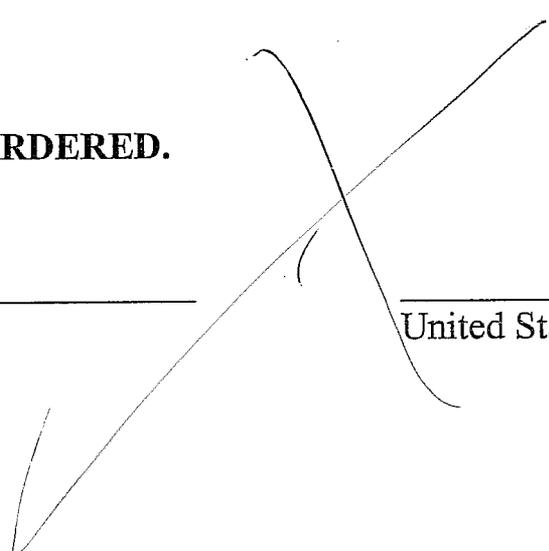
Dated: \_\_\_\_\_, 2004

\_\_\_\_\_  
Paul Carter, Esq.  
Attorney for Defendant Mitchell

**IT IS SO ORDERED.**

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

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



FEDERAL TRADE

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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: \_\_\_\_\_, 2004

FEDERAL TRADE COMMISSION

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

Dated: 12/16, 2004

  
John K. Mitchell, Defendant

APPROVED AS TO FORM

Dated: 12/17, 2004

  
Paul Carter, Esq.  
Attorney for Defendant Mitchell

IT IS SO ORDERED.

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

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

From: Paul Mitchell

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 ORDER  
6 OF PERMANENT INJUNCTION AS TO DEFENDANT JOHN MITCHELL" to be served  
7 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  
11 Long Beach, California 90802

COUNSEL FOR DEFENDANT  
JOHN K. MITCHELL

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

COUNSEL FOR PERMANENT  
RECEIVER

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

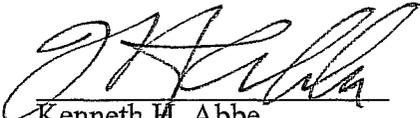
COUNSEL FOR DEFENDANT  
JEMUEL APELAR

16 Adrian B. Stern, CPA  
17 Clumeck, Stern  
18 17404 Ventura Blvd., 2nd Floor  
19 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

22   
23 Kenneth H. Abbe  
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