

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE No. 02-21753 CIV-JORDAN

CLOSED
CIVIL
CASE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

UNIVERSAL GREETING CARD CORP.,

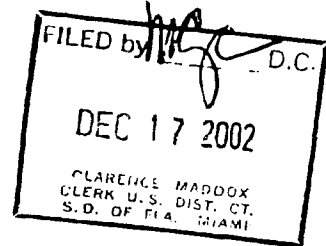
ROBERT RUFFEINO,

EDWARD JACOBS, and

WAYNE HAMMOND,

Defendants.

STIPULATED FINAL JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF AGAINST
EDWARD JACOBS



This matter comes before the Court on stipulation of Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), and Defendant Edward Jacobs. On June 12, 2002, the Commission filed a Complaint for a permanent injunction and other equitable relief in this matter pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The FTC charged defendants Universal Greeting Card Corporation, Robert Ruffeino, Edward Jacobs, and Wayne Hammond with engaging in deceptive acts or practices in connection with the marketing and sale of greeting card business ventures, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45. The Commission and Defendant Edward Jacobs have agreed to settle all matters of dispute between them without adjudication. Accordingly, it is hereby **ORDERED, ADJUDGED, AND DECREED:**

FINDINGS

1. This Court has jurisdiction of the subject matter of this case and the parties hereto. Venue is proper as to all parties in the Southern District of Florida.
2. The activities of Defendant Edward Jacobs ("Defendant") are in or affecting commerce, as defined in the FTC Act. 15 U.S.C. § 44.
3. The Complaint states a claim upon which relief may be granted against the Defendant under Sections 5(a) and 13(b) of the FTC Act. 15 U.S.C. §§ 45(a), 53(b).

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4. The Defendant waives all rights to seek judicial review or otherwise challenge or contest the validity of this Final Order. The Defendant further waives any claim that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any claims he may have against the Commission, its employees, representatives, or agents.

5. The Defendant enters into this Final Order freely and without coercion and acknowledges that he has read, understands, and is prepared to abide by, the provisions of this Final Order.

6. This Final Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

7. Entry of this Final Order is in the public interest.

DEFINITIONS

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

1. "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, inventory, checks, notes, leaseholds, effects, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and cash, wherever located, whether in the United States or abroad.

2. "Business venture" means any written or oral business arrangement, however denominated, whether or not covered by the Franchise Rule, which consists of the payment of any consideration for:

a. the right or means to offer, sell, or distribute goods or services (whether or not identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and

b. more than nominal assistance to any person or entity in connection with or incident to the establishment, maintenance, or operation of a new business or the entry by an existing business into a new line or type of business.

3. "Defendant" means Edward Jacobs.

4. "Defendants" means Universal Greeting Card Corporation, Robert Ruffeino, Edward Jacobs, and Wayne Hammond.

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. "Person" means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

7. The terms "and" and "or" have both conjunctive and disjunctive meanings.

ORDER

I.

PERMANENT BAN

IT IS THEREFORE ORDERED that Defendant Edward Jacobs is hereby permanently restrained and enjoined from:

A. Advertising, marketing, promoting, offering for sale, sale, or assisting any other person in the sale of any business venture; and

B. Receiving any remuneration of any kind whatsoever from, holding any ownership interest, share, or stock in, or serving as an officer, director, trustee, general manager of, or consultant or advisor to, any person engaged in the advertising, marketing, promoting, offering for sale, or sale of any business venture.

II.

CONSUMER REDRESS AND OTHER EQUITABLE RELIEF

IT IS FURTHER ORDERED that judgment is hereby entered against Defendant Edward Jacobs in the amount of ONE HUNDRED SIXTY SEVEN THOUSAND SIX HUNDRED EIGHT TWO DOLLARS (\$167,682.00); *provided, however*, that this judgment shall be suspended until further order of the Court, and *provided further* that this judgment shall be subject to the conditions set forth in Section III of this Final Order.

III.
RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. The Commission's agreement to, and the Court's approval of, this Final Order is expressly premised upon the truthfulness, accuracy, and completeness of Defendant Edward Jacobs' financial statement dated June 30, 2002, which contains material information relied upon by the Commission in negotiating and agreeing to the terms of this Final Order.

B. If, upon motion, this Court should find that the Defendant made a material misrepresentation or omitted material information concerning his financial condition, then the Court, without further adjudication, shall lift the suspension on the judgment holding him liable to the Commission in the amount of ONE HUNDRED SIXTY SEVEN THOUSAND SIX HUNDRED EIGHT TWO DOLLARS (\$167,682.00) for consumer redress; *provided, however*, that the Commission can collect a total of no more than ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$1,700,000.00) from all of the defendants in connection with this action. This amount shall become immediately due and payable, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance.

C. The Defendant agrees that the facts as alleged in the Complaint filed in this action shall be taken as true in any subsequent litigation filed by the Commission to enforce its rights pursuant to this Final Order, including, but not limited to, a nondischargeability complaint filed in any bankruptcy proceeding.

D. Should this Final Order be modified pursuant to this Section, this Final Order, in all other respects, shall remain in full force and effect unless otherwise ordered by the Court. Any proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the FTC may initiate to enforce this Final Order.

IV.
LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze against the assets of Defendant Edward Jacobs pursuant to the Preliminary Injunction entered by this Court on June 28, 2002, shall be lifted upon entry of this Final Order.

V.

CUSTOMER LISTS

IT IS FURTHER ORDERED that the Defendant, and his successors, assigns, agents, servants, employees, officers, and all persons directly or indirectly under his control, and all other persons in active concert or participation with him who receive actual notice of this Final Order by personal service or otherwise, and each such person, whether acting directly or through any corporation, subsidiary, division, or other device, are permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid money to any of the defendants for purchase of a business venture; *provided* that the Defendant may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

VI.

DISTRIBUTION OF ORDER

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Final Order, the Defendant shall:

A. Provide a copy of this Final Order to, and obtain a signed and dated acknowledgment of receipt of same from, each officer or director, each individual serving in a management capacity, all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors, or otherwise, immediately upon employing or retaining any such persons, for any business where he is the majority owner of the business or directly or indirectly manages or controls the business; and

B. Maintain for a period of three (3) years after creation and, upon reasonable notice, make available to representatives of the Commission, the original signed and dated acknowledgments of the receipt of copies of this Final Order, as required by this Section.

VII.

RECORD KEEPING

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Final Order, the Defendant and his agents, employees, officers, corporations, successors

and assigns, and those persons in active concert or participation with him who receive actual notice of this Final Order by personal service or otherwise, in connection with any business where he is the majority owner of the business or directly or indirectly manages or controls the business, are hereby restrained and enjoined from failing to create, and from failing to 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 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. Complaint and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests; and

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

VIII.

COMPLIANCE REPORTING

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

A. For a period of five (5) years from the date of entry of this Final Order, notify the Commission of the following:

1. Any changes in his residence address, mailing address, and telephone number, within ten (10) days of the date of such change;

2. Any changes in his employment status (including self-employment) within ten (10) days of such change. The notice shall include the name and address of each business with which he is affiliated or employed, a statement of the nature of the business, and a statement of his duties and responsibilities in connection with the business or employment; and

3. Any proposed change in the structure of any business entity owned or controlled by him, such as creation, incorporation, dissolution, assignment, sale, merger, creation or dissolution of subsidiaries, proposed filing of a bankruptcy petition, or change in the corporate name or address, or any other change that may affect compliance obligations arising out of this Final Order, thirty (30) days prior to the effective date of any proposed change; *provided, however,* with respect to any such proposed change about which he learns less than thirty (30) days prior to the date such action is to take place, he shall notify the Commission as soon as practicable after learning of the proposed change;

B. One hundred eighty (180) days after the date of entry of this Final Order, the 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 he has complied and is complying with this Final Order. This report shall include but not be limited to:

1. The Defendant's then current residence and mailing addresses and telephone number;
2. The Defendant's then current employment, business address, and telephone number, a description of the business activities of each such employer, and defendant's title and responsibilities for each employer;
3. A copy of each acknowledgment of receipt of this Final Order obtained by the Defendant pursuant to this Final Order; and
4. A statement describing the manner in which the Defendant has complied and is complying with the injunctive provisions in Section I of this Final Order.

C. Upon written request by a representative of the Commission, the Defendant shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days' notice with respect to any conduct subject to this Final Order.

D. For the purposes of this Final Order, the Defendant shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director
Division of Marketing Practices
Federal Trade Commission, Room 238
6th Street and Pennsylvania Avenue, NW
Washington, D.C. 20580
Re: FTC v. Universal Greeting Card Corp., et al.
Case No. 02-21753-CIV-JORDAN (S.D. Fla.)

E. For the purposes of this Section, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" includes any individual or entity for whom defendant performs services as an employee, consultant, or independent contractor.

F. For purposes of the compliance reporting required by this Section, the Commission is authorized to communicate directly with the Defendant.

IX.

COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE

IT IS FURTHER ORDERED that the Commission is authorized to monitor the Defendants' compliance with this Final Order by all lawful means, including but not limited to, the following means:

A. The Commission is authorized, without further leave of court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26-37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating the Defendant's compliance with any provision of this Final Order;

B. The Commission is authorized to use representatives posing as consumers and suppliers to the Defendant, his employees, or any other entity managed or controlled in whole or in part by him, without the necessity of identification or prior notice;

C. Nothing in this Final 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 and 57b-1, to investigate whether the Defendant has violated any provision of this Final Order or Section 5 of the FTC Act, 15 U.S.C. § 45; and

D. For purposes of the compliance monitoring authorized by this Section, the Commission, and its agents, are authorized to communicate directly with the Defendant.

X.

ACCESS TO BUSINESS PREMISES

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Final Order, for the purpose of further determining compliance with this Final Order, the Defendant shall, within three (3) business days of receipt of written notice from the Commission,

permit representatives of the Commission:

A. Access during normal business hours to any office, or facility storing documents, of any business where the Defendant is the majority owner of the business or directly or indirectly manage or control the business. In providing such access, the Defendant shall permit representatives of the Commission to inspect and copy all documents relevant to any matter contained in this Final Order, and shall permit Commission representatives to remove documents relevant to any matter contained in this Final Order for a period not to exceed five (5) business days so that the documents may be inspected, inventoried, and copied;

B. To interview the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors, or otherwise, of any business to which Paragraph A of this Section applies, concerning matters relating to compliance with the terms of this Final Order. The person interviewed may have counsel present;

C. For purposes of the access request permitted by this Section, the Commission is authorized to communicate directly with the Defendant.

D. *Provided that*, upon application of the Commission and for good cause shown, the Court may enter an *ex parte* order granting immediate access to the premises of any business to which Paragraph A of this Section applies, for the purposes of inspecting and copying all documents relevant to any matter contained in this Final Order.

XI.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that, within five (5) business days after receipt of this Final Order as entered by the Court, the Defendant shall submit to the Commission a truthful sworn and notarized statement, in the form attached to this Final Order as Appendix A, acknowledging receipt of this Final Order as entered by this Court.

XII.

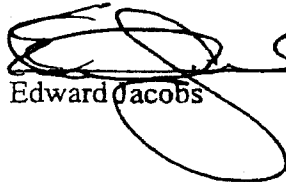
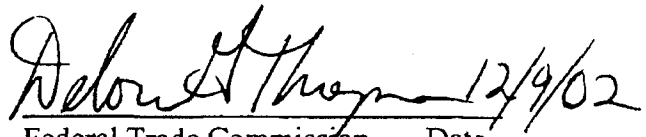
INDEPENDENCE OF OBLIGATIONS

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

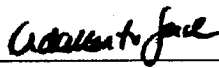
XIII. COURT'S RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for all purposes.

SO STIPULATED:

	<u>8/19/02</u>		<u>12/9/02</u>
Edward Jacobs	Date	Federal Trade Commission by Delores Gardner Thompson Attorney for Plaintiff	Date

SO ORDERED, this 17th day of December, 2002.



Hon. Adalberto Jordan
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE No. 02-21753 CIV-JORDAN

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

UNIVERSAL GREETING CARD CORP.,

ROBERT RUFFEINO,

EDWARD JACOBS, and

WAYNE HAMMOND,

Defendants.

**AFFIDAVIT OF RECEIPT OF
STIPULATED FINAL JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

I, _____, hereby declare as follows:

1. I am a defendant in the action FTC v. Universal Greeting Card Corp., et al. My current residence address is

_____. I am a citizen of the United States and over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.

2. I agreed to entry of a Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief ("Stipulated Order") to settle the charges in the Commission's Complaint. I read the provisions of the Stipulated Order before signing it. I understand all the provisions of the Stipulated Order. By signing the Stipulated Order I agreed to be bound by those provisions.