

CITY OF NEW YORK  
DEPARTMENT OF CONSUMER AFFAIRS

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DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

– against –

KEVIN BANKS and  
ARIEL WONG, a/k/a ARIEL WANG,

a/k/a NEW YORK SECURITY, NY  
SECURITY, N.Y. SECURITY, NYSA  
RECRUITMENT & TRAINING, HPC  
SECURITY RECRUITMENT & TRAINING,  
HP SECURITY RECRUITMENT &  
TRAINING, NY SERVICES, NEW YORK  
NIGHT LIFE, and NY NIGHT LIFE,

Respondents.  
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CONSENT ORDER

Violation Number: 05349392

1. Respondents, Kevin Banks (“Respondent Banks”) and Ariel Wong a/k/a Ariel Wong (“Respondent Wong”), together a/k/a New York Security, NY Security N.Y. Security, NYSA Recruitment & Training, HPC Security Recruitment & Training, and HP Security Recruitment & Training, NY Services, New York Night Life, and NY Night Life (“Respondents”) acknowledge that the New York City Department of Consumer Affairs (the “Department”) served them with a Notice of Hearing (“NOH”) on February 25, 2015 and with an Amended NOH on April 22, 2015, charging them with violating the New York State General Business Law (“GBL”) Section 172 by operating an employment agency without a license, and New York City Administrative Code (“Code”) Section 20-700 (the Consumer Protection Law or “CPL”) by engaging in deceptive trade practices.
2. Respondent Banks and Respondent Wong consent to this Consent Order (“CO”) to settle the above violation.
3. Respondent Banks is authorized to enter into this CO on behalf of himself and Respondent Wong is authorized to enter into this CO on behalf of herself.
4. The Department hereby withdraws the charges against Respondent Wong. However, in the event that: a) Respondent Banks breaches the agreement in any manner, or b) Respondent Wong is found to be engaging in activity without a license of which a Departmental license is required, or c) Respondent Wong engages in any

acts that violate the employment agency laws or rules as stated in the GBL, or d) Respondent Wong violates the CPL, the charges against Respondent Wong will be reinstated and Respondent Wong will be treated as a recidivist for the purposes of any fines or penalties and Respondent Wong will agree to pay whatever amount Respondent Banks failed to pay.

5. This CO supersedes all prior settlement agreements that Respondents may have entered into with the Department.
6. This CO shall apply to Respondents and any other directors, officers, employees, agents, assignees, successors, or other business entities, whose acts, practices, or policies are directed, formulated, or controlled by Respondents. For the purposes of this CO, “employee” means any person employed for hire or permitted to work by Respondents including, but not limited to, any person who manages or oversees the work of another, any person whose main activity is the selling of services for Respondent, and any person whose earnings are based in whole or in part on work performed for Respondents.

## **DEFINITIONS**

7. “Job applicant” or “applicant” means a consumer seeking employment.
8. “Advertisement” means all promotional materials, statements, visual descriptions, or other representations of any kind disseminated in print, orally, or electronically by or on behalf of Respondent to consumers including, but not limited to, mailings, flyers, hand-outs, brochures, business cards, classified ads, in-store and window signage, print advertisements, television advertisements, internet advertisements, radio advertisements, text messaging and social media.
9. “Conspicuous” and “conspicuously” mean that the statement, signage, or term (collectively, the “disclosure”) is made in a manner that is readily apparent and understandable by an ordinary person from any distance from which an applicant is able to view the main message of the disclosure. Considerations relevant to whether a disclosure is conspicuous include, but are not limited to, relative type size, font, color contrast, and location of disclosure.

## **INJUNCTIVE RELIEF**

10. On or before the time this CO is signed, Respondent Banks shall provide the Department with the full names, aliases, phone numbers, residential addresses, business addresses, websites, email addresses, social media accounts, photographs, and any other current contact information that he has in his possession or is able to reasonably obtain pertaining to the following individuals:

- a. Sal Mendez or Sebastian Ortiz
  - b. Julian Mark Hailes or Mr. Wyze or Mr. Wise
  - c. Ben Richmond
  - d. Justine Gonzalez
  - e. Kelvin
11. Respondent Banks shall fully cooperate with any investigation the Department undertakes against any of the individuals listed in paragraph 10, including, but not limited to, preparing for and testifying at depositions, hearings and/or trials.
  12. If the Department learns that Respondent Banks failed to provide information in his possession or which he reasonably attempted to obtain pertaining to the location or whereabouts of the individuals named in paragraph 10 or that he failed to testify fully and accurately, he will be deemed to be in breach of this CO.
  13. Respondents shall comply with this CO, as well as all applicable laws and rules, including GBL Section 170 et seq (the “Employment Agency Law”), Code Section 20-101 et seq. (the “License Enforcement Law”), Code Section 20-700 et seq. (the “Consumer Protection Law”), and Title 6 of the Rules of the City of New York (“Rules”), whether or not specifically set forth in this CO.
  14. Respondents shall immediately cease engaging in unlicensed employment agency activity, including but not limited to taking money from consumers and then either giving them certified or uncertified training or referring them to other certified or uncertified providers to get trained . Respondents shall not engage in employment agency activity unless and until it obtains a license from the Department.
  15. Respondents shall comply with the requirements of the Department’s Earned Sick Time Act (Paid Sick Leave Law) as set forth in Code Section 20-911 et. seq.
  16. If Respondents become licensed, Respondents shall only send or refer job applicants to legitimate job openings which are (i) obtained from a representative of the employer and reflect an actual job opening and (ii) verified by Respondents as a current job opening no less than once every seven (7) days.

### **PROHIBITED PRACTICES**

17. If Respondents obtain an employment agency license, Respondents shall not charge a job applicant a fee prior to job placement unless the applicant is referred to an employer to apply for a position as a domestic, household employee, unskilled or untrained manual workers and laborers (including agricultural workers), non-professional trained or skilled industrial workers, or mechanics. No other job applicants shall be charged a fee until job placement has occurred.

18. If Respondents obtain an employment agency license, Respondents shall not charge a job applicant a registration or application fee. Except as described in Section 185 of the GBL, Respondent shall not charge a job applicant a fee for any other goods or services including, but not limited to:
  - a. referring or promising to refer a job applicant to interviews or meetings with employers or prospective employers;
  - b. training job applicants; or
  - c. photographing job applicants; or
  - d. referring or promising to refer job applicants to any training program whatsoever.
19. If Respondents obtain an employment agency license, Respondents shall not tell job applicants, either orally or in writing, that they are required to enroll in any training program before the job applicants can be placed in a job.

### **PROHIBITED DISCRIMINATORY PRACTICES**

20. If Respondents obtain an employment agency license, Respondents shall not request information from any job applicant that is unrelated to the performance of the job he or she is seeking or forbidden by Section 8-101 et seq. of the Code (“the New York City Human Rights Law”).
21. If Respondents obtain an employment agency license, in addition to the unlawful discriminatory practices identified in Section 8-107 et seq. of the New York City Human Rights Law, Respondent shall not:
  - a. ask either directly or indirectly, in writing or orally, about a job applicant’s actual or perceived age, race, creed, color, national origin, religion, disability, marital status, partnership status, sexual orientation, gender identification, alienage or citizenship status, or arrest and criminal conviction record;
  - b. ask employers if they prefer or require applicants of a particular age or age range, race, creed, color, national origin, religion, disability, marital status, partnership status, sexual orientation, gender identification, alienage or citizenship status, or arrest and criminal conviction record;
  - c. refer applicants for employment based, in whole or in part, on the applicant’s actual or perceived age, race, creed, color, national origin, religion, gender, disability, marital status, partnership status, sexual orientation, gender identification, alienage or citizenship status, or arrest or criminal conviction record; or
  - d. classify or advertise employment positions, in any medium, including but not limited to, any websites, newspapers or magazines as being open only or generally to job applicants of a particular age or age range, race, creed, color,

national origin, religion, disability, marital status, partnership status, sexual orientation, gender identification, alienage or citizenship status or express in any way, either orally or in writing, in any medium or format that applicants who fall into one of the categories are preferred for an employment position.

22. If Respondents obtain an employment agency license, Respondents shall not base their decision to refer or place an applicant on that applicant's current or past unemployment history.
23. If Respondents obtain an employment agency license, Respondents shall not solicit the following information from job applicants in any form:
  - a. number and/or age of children;
  - b. height or weight, unless related to the performance of the job;
  - c. HIV/AIDS status or any other disease or disability; or
  - d. possession of a driver's license, unless related to function of the job.

#### **PROHIBITED PRACTICES IN ADVERTISING**

24. If Respondents obtain an employment agency license, Respondents shall not advertise that it can "guarantee" jobs or placement.
25. If Respondents obtain an employment agency license, Respondents shall not advertise that it is "no fee," unless it is an employer fee paid employment agency, as defined in Section 191 of the GBL.
26. If Respondents obtain an employment agency license, Respondents shall disclose all potential fees that may be required in advertisements, including fees for job training, referral services or job placement services.

#### **REQUIRED DOCUMENTS**

27. If Respondents obtain an employment agency license,, Respondents shall provide all documents and forms it is required to provide pursuant to applicable laws and rules or by this CO, including but not limited to applications, contracts and receipts, in English, as well as in every language in which Respondents advertise or conduct business with consumers.

##### **A. Employer and Applicant Register and Refund Log**

28. If Respondents obtain an employment agency license,, Respondents shall use the

Department's Employer and Applicant Register and Refund Log to record employer and applicant information, as required by GBL Section 179, and all refunds requested or provided to applicants. The Employer and Applicant Register and Refund Log is available on the Department's website at: <http://www.nyc.gov/BusinessToolbox>.

29. If Respondents obtain an employment agency license,, Respondents shall maintain the required registers and log on its premises for three years. Respondents shall make such records available for inspection upon Department's demand.

**B. Application Forms**

30. If Respondents obtain an employment agency license,, Respondents shall write the word, "Application," clearly and conspicuously at the top of all forms used as applications.
31. If Respondents obtain an employment agency license,, Respondents' application form shall include:
- a. the last name and first name of job applicant;
  - b. the mailing address of job applicant;
  - c. the e-mail address of job applicant;
  - d. the position Respondent seeks for or on behalf of job applicant; and
  - e. the fee(s) or deposit paid by job applicant.
32. If Respondents obtain an employment agency license,, Respondents shall state clearly and conspicuously at the top of the application form or above the signature line, in fourteen (14) point bold, non-compressed type face:

**NOTICE TO JOB APPLICANT --- READ BEFORE SIGNING**

It is **against the law** for the Employment Agency to:

- ask you questions about your age, race, creed, color, national origin, sex, disability status, marital status, sexual orientation, gender identification, and alienage or citizenship status, or arrest and criminal conviction record;
- charge you a registration or application fee, or
- refer you to jobs that pay less than the minimum wage as set by New York State and federal law.

**IF YOU HAVE A COMPLAINT ABOUT THIS EMPLOYMENT AGENCY OR YOU WOULD LIKE MORE INFORMATION, CALL 3-1-1 OR VISIT [www.nyc.gov/consumers](http://www.nyc.gov/consumers).**

**C. Contracts**

33. If Respondents obtain an employment agency license,, Respondents shall provide every job applicant with the Department’s Model Contract, as updated, attached as Exhibit A and available through the Department’s website at [http://www.nyc.gov/html/dca/html/business/BT\\_modeltemplates.shtml](http://www.nyc.gov/html/dca/html/business/BT_modeltemplates.shtml). Respondents must fill out the entire contract form for each applicant.

**D. Receipts**

34. If Respondents obtain an employment agency license,, Respondents shall provide every job applicant with the Department’s Model Receipt, as updated, attached as Exhibit B and available through the Department’s website at [http://www.nyc.gov/html/dca/html/business/BT\\_modeltemplates.shtml](http://www.nyc.gov/html/dca/html/business/BT_modeltemplates.shtml).

**E. Signs**

35. If Respondents obtain an employment agency license,, Respondents shall display conspicuously in the reception or waiting area: (i) the poster provided by the Department (the “DCA Law Card”) containing Sections 178, 181, 185 and 186 of the GBL; and (ii) the New York State Anti-Discrimination Poster. These posters are available at the Department’s Licensing Center located at 42 Broadway, 5th Floor, New York, NY 10004.
36. If Respondents obtain an employment agency license,, Respondents shall display conspicuously in the reception or waiting area a sign in English and in every language in which Respondents advertise or conduct business with consumers in any way, that states the following:

**NOTICE:** It is against the law for an employment agency to charge a registration or application fee. The agency can only collect a deposit if you are applying for certain types of jobs. If an agency charges you an improper fee, you are entitled to a refund. If you are not given a refund or you have a complaint or need more information call 3-1-1.

**F. Statement of Employee Rights and Employer Responsibilities**

37. If Respondents obtain an employment agency license,, Respondents shall provide to every applicant seeking a position as a domestic or household employee and the prospective employer, pursuant to Section 20-771, the Department’s approved Statement of Employee Rights and Employer Responsibilities Form attached as Exhibit C and made available on the Department’s website at: [http://www.nyc.gov/html/dca/downloads/pdf/employmentagency\\_english.pdf](http://www.nyc.gov/html/dca/downloads/pdf/employmentagency_english.pdf)

**G. Statement of Job Conditions**

38. If Respondents obtain an employment agency license,, Respondents shall provide to each applicant seeking employment as a domestic or household employee, pursuant to Section 20-772, with the Department’s approved Statement of Job Conditions Form, attached as Exhibit D and available on the Department’s website at: <http://www.nyc.gov/html/dca/downloads/pdf/DomesticHouseholdEmployeeJobDescriptionForm.pdf>

**COMPLIANCE AND TRAINING**

39. If Respondents obtain an employment agency license, and if the Department holds or informs Respondent of training for employment agencies, an employee of Respondents with management responsibility shall attend the training on a date and time set forth by the Department.
40. If Respondents obtain an employment agency license,, Respondents shall notify the Department within ten (10) days of receipt of any (i) actions or proceedings filed against Respondents by any government agency. Respondents shall send the notification by mail to: Department of Consumer Affairs, Legal Division, 42 Broadway, 9<sup>th</sup> floor, New York, NY 10004, or by email to: [regcmplea@dca.nyc.gov](mailto:regcmplea@dca.nyc.gov).

**PENALTY AND RESTITUTION**

41. Respondent Banks shall pay a total amount of restitution of **\$16,285.00** for the consumers named in the Amended Notice of Hearing and the document entitled “Consumer Complaints for DCA v. Kevin Banks and Ariel Wong, a/k/a NY Security, et. al.” served on Respondents personally on May 28, 2015. Respondent Banks shall pay the first restitution payment will be made out as follows by June 26, 2015:

- |                       |            |       |
|-----------------------|------------|-------|
| a.                    | ██████████ | \$300 |
| b.                    | ██████████ | \$600 |
| 42. By July 6, 2015:  |            |       |
| a.                    | ██████████ | \$540 |
| b.                    | ██████████ | \$500 |
| 43. By July 19, 2015: |            |       |
| a.                    | ██████████ | \$480 |
| b.                    | ██████████ | \$380 |
| c.                    | ██████████ | \$380 |
| d.                    | ██████████ | \$355 |
| e.                    | ██████████ | \$305 |



44. Respondent Banks shall pay a total restitution in the amount of **\$4,070.00** on or before August 19, 2015 for the following consumers:

a.	[REDACTED]	\$600
b.	[REDACTED]	\$380
c.	[REDACTED]	\$365
d.	[REDACTED]	\$355
e.	[REDACTED]	\$350
f.	[REDACTED]	\$280
g.	[REDACTED]	\$250
h.	[REDACTED]s	\$180
i.	[REDACTED]	\$130
j.	[REDACTED]	\$100
k.	[REDACTED]	\$100
l.	[REDACTED]	\$100
m.	[REDACTED]	\$80
n.	[REDACTED]	\$80
o.	[REDACTED]	\$80
p.	[REDACTED]	\$80
q.	[REDACTED]	\$80
r.	[REDACTED]	\$80
s.	[REDACTED]	\$80
t.	[REDACTED]	\$80
u.	[REDACTED]	\$80
v.	[REDACTED]	\$80
w.	[REDACTED]	\$80

45. Respondent Banks shall pay a total restitution in the amount of **\$3985.00** on or before September 19, 2015 for the following consumers:

a.	[REDACTED]	\$600
b.	[REDACTED]	\$600
c.	[REDACTED]	\$500
d.	[REDACTED]	\$480
e.	[REDACTED]	\$380
f.	[REDACTED]	\$300
g.	[REDACTED]	\$250
h.	[REDACTED]	\$205
i.	[REDACTED]	\$150
j.	[REDACTED]	\$100
k.	[REDACTED]	\$100
l.	[REDACTED]	\$80
m.	[REDACTED]	\$80
n.	[REDACTED]	\$80
o.	[REDACTED]	\$80

46. Respondent Banks shall pay a total restitution in the amount of **\$3,990.00** on or before October 19, 2015 for the following consumers:

a.	[REDACTED]	\$680
b.	[REDACTED]	\$580
c.	[REDACTED]	\$460
d.	[REDACTED]	\$200
e.	[REDACTED]	\$140
f.	[REDACTED]	\$130
g.	[REDACTED]	\$100
h.	[REDACTED]	\$100
i.	[REDACTED]	\$100
j.	[REDACTED]	\$90
k.	[REDACTED]	\$80
l.	[REDACTED]	\$80
m.	[REDACTED]	\$80
n.	[REDACTED]	\$80
o.	[REDACTED]	\$80
p.	[REDACTED]	\$80
q.	[REDACTED]	\$80
r.	[REDACTED]	\$80
s.	[REDACTED]	\$80
t.	[REDACTED]	\$80
u.	[REDACTED]	\$80
v.	[REDACTED]	\$80
w.	[REDACTED]	\$80
x.	[REDACTED]	\$80
y.	[REDACTED]	\$80
z.	[REDACTED]	\$80
aa.	[REDACTED]	\$80
bb.	[REDACTED]	\$50

47. Respondent Banks shall make each restitution payment by bank check, certified check, or money order payable to each individual consumer described in paragraphs 41, 42, 43 and 44. Respondent Banks shall submit each check to the New York City Department of Consumer Affairs, Legal Division, Attn: Julliana Elbayar, Esq.

48. Respondent Banks shall pay **\$32,000.00** to the Department to establish a Consumer Restitution Trust Fund (“Trust Fund”). The Trust Fund shall remain open for one year from the date it is fully funded or until the Trust Fund is fully depleted. At the end of this period, any funds remaining in the Trust Fund shall revert to the Department as fines to the Department. Payment shall be made by certified check or money order made payable to The New York City Department of Consumer Affairs and shall be made pursuant to the following schedule:

- a. \$2,700 on or before November 19, 2015;
  - b. \$2,700 on or before December 19, 2015;
  - c. \$2,700 on or before January 19, 2016;
  - d. \$2,700 on or before February 19, 2016;
  - e. \$2,700 on or before March 19, 2016;
  - f. \$2,700 on or before April 19, 2016;
  - g. \$2,700 on or before May 19, 2016;
  - h. \$2,700 on or before June 19, 2016;
  - i. \$2,700 on or before July 19, 2016;
  - j. \$2,700 on or before August 19, 2016;
  - k. \$2,500 on or before September 19, 2016;
  - l. \$2,500 on or before October 19, 2016;
49. Respondent Banks shall also pay a fine of **\$10,000.00** to the Department. Payment shall be made by certified check or money order made payable to The New York City Department of Consumer Affairs and shall be made pursuant to the following schedule:
- a. \$2,500 on or before November 19, 2016;
  - b. \$2,500 on or before December 19, 2016;
  - c. \$2,500 on or before January 19, 2017;
  - d. \$2,500 on or before February 19, 2017;
50. In the event that Respondent Banks defaults in any of the above payments, the Department shall provide Respondent Banks with written notice of his default by electronic mail (“e-mail”) at Respondent’s email address: kevinbanks@aol.com. The Department will also notify Respondent Wong of mr. Banks’ default by e-mail at her email address: ariel.wong@icloud.com. Respondent Banks shall have ten (10) business days from the date of mailing to cure a default. It shall be Respondent Banks’s responsibility to inform the Department of any change in e-mail address as the e-mailing of notice to Respondent Banks shall be deemed sufficient notice of default, regardless of whether or not Respondent Banks actually receives the notice. If Respondent Banks does not cure a default within ten (10) business days from the date of the mailing, the entire remaining balance shall become due and owing without any further notice. In addition, Respondent Wong will agree to be held liable for any remaining balance.

### **CONSEQUENCES OF BREACH**

51. If, after notice and a hearing, Respondents are found to have breached any provision of this CO, Respondents shall be ordered to pay a penalty of \$1,000. This penalty shall be in addition to the fine ordered for Respondents’ violation of a particular law or rule.

52. A future violation of any provision of the Consumer Protection Law and Rules shall be deemed a “knowing violation” subject to a penalty of \$500.
53. If Respondents fail to provide complete and truthful responses, conceal information, or make a false statement, or allow to be falsified the Self-Certification Form, such conduct shall be treated as a separate violation(s) and a breach of this CO and the terms of the Self-Certification Form, and shall be assessed as a separate penalty at the maximum allowed by law.
54. This CO does not resolve any other consumer complaints against Respondents that are filed with, or otherwise brought to the attention of, the Department and does not waive the Department’s right to seek relief on behalf of those aggrieved consumers.

### **WAIVER OF APPEALS**

55. Respondents waive any further right to a hearing or appeal on the above-referenced citation under Section 20–104 of the Code or under Article 78 of the New York State Civil Practice Law and Rules, Sections 7801-7806.

### **MISCELLANEOUS**

56. The acceptance of this CO by the Department shall not be deemed approval by the Department of any of Respondent’s business practices, and Respondents shall make no representation to the contrary.
57. If Respondents submit a license application to the Department and satisfy all licensing requirements, the charges as stated in the Amended NOH will not be used as the sole basis for a denial of the license if such a decision is made. In addition, the Department makes no guarantee were Respondents to submit an application for a license that it would be automatically approved.

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58. This matter will be considered settled upon execution of this CO and full satisfaction of the terms as stated herein.

Accepted for Respondent

**Kevin Banks**

a/k/a New York Security, NY Security N.Y. Security, NYSA Recruitment & Training, HPC Security Recruitment & Training, and HP Security Recruitment & Training, NY Services, New York Night Life, and NY Night Life

Kevin Banks  
Print name

Owner  
Title

[Signature]  
Signature

Jun 19th 2015  
Date

Accepted for Julie Menin,  
Commissioner of Consumer Affairs  
for the City of New York by:

[Redacted]  
Print name

Deputy Director, Legal Division  
Title

[Redacted]  
Signature

6/19/15  
Date

Accepted for Ariel Wong

**Ariel Wong**

Ariel Wong  
Print name

Co-owner  
Title

[Signature]  
Signature

6/19/15  
Date

Attorneys for Respondents Kevin  
Banks and Ariel Wong

Bon Sharan  
Print Name

V. Molina  
Law Firm

[Signature]  
Signature

6/19/2015  
Date

**Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located**

at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at [www.nyc.gov/consumers](http://www.nyc.gov/consumers). License application requirements for employment agencies are available at [www.nyc.gov/html/dca/html/licenses/034.shtml](http://www.nyc.gov/html/dca/html/licenses/034.shtml).