

CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

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DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

– against –

Velazquez, Indalecio
d/b/a Velmex Employment Agency

Respondent.
-----X

CONSENT ORDER

Violation Numbers: LL006000001
LL005259751
License Number: 1305011

1. Velazquez, Indalecio, d/b/a Velmex Employment Agency, license number 1305011 (“Respondent”) acknowledges that the New York City Department of Consumer Affairs (the “Department”) served on Respondent a Subpoena Duces Tecum on or about May 9, 2011 (“Subpoena”) requiring Respondent to produce various records and documents. In response, Respondent produced various records and documents including business records, licensing and tax documents, contracts, receipts, and an employer ledger.
2. The Department reviewed the documents produced by Respondent in response to the Subpoena and discovered possible violations of New York State General Business Law (“GBL”) Section 170 *et seq* (“the Employment Agency Law”) and Title 6 of the Rules of the City of New York (“the Rules”) Section 1-05.
3. Additionally, the Department issued to Respondent Notices of Hearing, LL006000001 on February 29, 2012 and LL005259751 on March 30, 2011, which charged Respondent with violating the GBL and the Rules for failing to retain a completed register with employer information, failing to retain a completed register with applicant information, and failing to identify the Respondent’s Department issued license number on documents.
4. Respondent consents to this Consent Order (the “CO”) to settle the charges in Notices of Hearing LL006000001 and LL005259751, as well as the potential charges resulting from the Department’s review of Respondent’s records produced in response to the Subpoena.
5. Indalecio Velazquez, as Sole Owner of Respondent, represents and certifies that he is duly authorized to settle this violation and to enter into this CO with the Department on behalf of Respondent.
6. This CO shall apply to Respondent and any other directors, officers, employees, agents, assignees, successors, or other business entities, whose acts, practices, or policies are directed, formulated, or controlled by Respondent. For the purposes of this CO, “employee”

means any person employed for hire or permitted to work by Respondent including, but not limited to, any person who manages or oversees the work of another, any person whose main activity is the selling of any goods or services for Respondent, and any person whose earnings are based in whole or in part on work performed for Respondent.

7. Respondent shall maintain a list identifying each employee by name, address, phone number and email address for three years and shall produce this list to the Department upon request.

A. Definitions

8. “Job applicant” or “applicant” means a consumer seeking employment.

B. Injunctive Relief

9. Respondent shall comply with all applicable laws and rules, including the Employment Agency Law, the License Enforcement Law (Code Section 20-101, et. seq.) and Rules, and the Consumer Protection Law (Code Section 20-700, et. seq.) and Rules. Respondent acknowledges that it is responsible for complying with all amendments to applicable laws and rules.

C. Documents Generally

10. Respondent shall provide to job applicants 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 Respondent advertises or conducts business with consumers.

D. Contracts

11. Respondent shall provide every job applicant with the Department’s Model Contract, as updated, attached as Exhibit A and available through the Department’s webpage, <http://www.nyc.gov/consumers>.¹ Respondent shall update, revise or amend its contracts as required by law or rule or, within 10 days of a request by the Department.

E. Fees and Refunds

12. Respondent shall charge a job applicant a fee only for job placement.

13. Respondent 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.

¹ Also available at: http://www.nyc.gov/html/dca/downloads/pdf/ea_model_contract_english.pdf and http://www.nyc.gov/html/dca/downloads/pdf/ea_model_contract_spanish.pdf.

14. Respondent shall not charge a job applicant a registration fee.
15. Respondent shall not charge a job applicant a fee higher than the maximum fee permitted in Section 185 of the GBL.
16. 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: (i) referring or promising to refer a job applicant to interviews or meetings with employers or prospective employers; (ii) training job applicants; or (iii) photographing job applicants.
17. Respondent shall make any refund required under Article 11 of the GBL to a job applicant within seven (7) days after a job applicant requests a refund, regardless of whether the job applicant requests the refund orally or in writing. Refunds shall be issued in cases of excessive fees, failure of a job applicant to report to accepted employment, termination of employment without employee's fault, and termination under all other circumstances, as set forth in Section 186 of the GBL.
18. In addition to the logs required by Section 179 of the GBL, Respondent shall maintain on its premises a separate log book, in the English language, of all requests for refunds. Respondent shall maintain such log book on its premises for three years. Respondent shall make such records available for inspection upon Department's demand. Each entry in the log book shall include all of the following:
 - a. the name of the job applicant requesting a refund;
 - b. the date of such request;
 - c. the fee originally paid by the job applicant;
 - d. refunds paid;
 - e. amount of refund paid;
 - f. the date refund was paid;
 - g. the reason for refund; and
 - h. method refund paid, whether cash, check, or credit.

F. Job Orders

19. Respondent shall maintain on its premises a register, in the English language, that includes all of the following:
 - a. the name and address of every employer who pays a fee;
 - b. the name and address of every employer to whom an applicant paying a fee is referred;
 - c. the date each employer requested or assented to the furnishing of applicants;
 - d. the kind of positions for which applicants are requested;
 - e. the names of the applicants paying a fee who were sent to the employer, including a designation of the applicant hired;
 - f. the amount of the fee charged; and

g. the rate of wages or compensation agreed upon.

20. Respondent shall maintain on its premises a register, in the English language, of all fees, deposits and other money charged and/or collected. Each entry in the register shall include all of the following:

- a. the name address, and phone number of every job applicant;
- b. the date and amount of money charged;
- c. the date and amount of money paid;
- d. the name of the person making the payment;
- e. the purpose of the payment;
- f. positions job applicant applied or interviewed for, if any;
- g. the date the job applicant started work, if any;
- h. the date, amount, and reason the job applicant requested a full or partial refund, if any; and
- i. the date, amount, and reason Respondent refunded money to the job applicant, if any.

21. Respondent 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 Respondent as a current job opening no less than once every seven (7) days.

G. Receipts

22. Whenever Respondent receives any deposit, fee or other money from a job applicant, Respondent immediately shall provide the job applicant a written receipt that complies with Section 181 of the GBL, and is substantially similar to the Department's "Model Receipt," as updated, attached as Exhibit B and available through the Department's webpage, <http://www.nyc.gov/consumers>.² The receipt shall:

- a. have the word "Receipt" written clearly and conspicuously at the top;
- b. state the name of the applicant;
- c. state the name and address of the employment agency;
- d. state the date and amount of the fee;
- e. state the reason for the fee;
- f. include the DCA license number;
- g. contain a written confirmation that any and all fees that the employment agency requires job applicants to pay are consistent with the law; and
- h. include the signature, printed name, and title of the person receiving the deposit, fee, or other charge on behalf of the employment agency.

23. Respondent shall update, revise or amend its receipts as required by law or rule, or within 10 days of a request by the Department.

² Also available at: http://www.nyc.gov/html/dca/downloads/pdf/ea_model_contract_english.pdf and http://www.nyc.gov/html/dca/downloads/pdf/ea_model_contract_spanish.pdf

H. Statement of Employee Rights Regarding Employment Agencies

24. Before any discussion with job applicants seeking employment as domestic or household workers, Respondent shall give to the job applicants a readable copy of the Department's "Domestic or Household Employees: Statement of Employee Rights and Employer Responsibilities," which is attached hereto as "Exhibit C."³

I. Training

25. Respondent shall train all new employees on the requirements of this CO, and all applicable laws and regulations within two (2) days of an employee's start date. Respondent shall distribute materials to employees that include, at a minimum, this CO.

26. If the Department conducts a training in the future, an employee of Respondent with management responsibility shall attend the training, on a date and time set forth by the Department.

27. Respondent shall comply with Department instructions on submitting proof of attendance.

J. Consumer Complaints

28. Respondent shall notify the Department within ten (10) days of receipt of any (i) complaints, actions or proceedings filed against you by consumers in any forum, including state and federal courts, the Better Business Bureau, the Office of the Attorney General of the State of New York, the New York State Division of Human Rights, the New York City Commission on Human Rights, the New York State Workers' Compensation Board, the New York State Department of Labor, the Equal Employment Opportunity Commission, or any other agency or association, (ii) actions, proceedings or investigations by any government agency against you; and (iii) results of any actions, proceedings or investigations against you that resulted in the revocation or suspension of a license, the imposition of fines or restitution, a voluntary settlement, a court order, a criminal guilty plea, or conviction.

29. This CO does not resolve any consumer complaints against Respondent 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 aggrieved Consumers.

30. Respondent shall in good faith make all reasonable efforts to resolve any consumer complaints filed with the Department within twenty (20) days of receipt of a complaint. In all instances, Respondent shall respond in writing to the Department regarding a consumer complaint within twenty (20) days of receipt of any complaint as required by Section 1-13 of the Rules.

³ Also available at: http://www.nyc.gov/html/dca/downloads/pdf/employmentagency_english.pdf and http://www.nyc.gov/html/dca/downloads/pdf/employmentagency_spanish.pdf.

31. Respondent shall maintain for inspection by the Department files of all consumer complaints it receives from any state or local agency, including the Department, in a manner that is organized and readily accessible.

K. Compliance

32. Respondent shall make all documents, registers, records or logs required to be maintained by this CO and applicable laws available for inspection at the Department's offices or at Respondent's place of business upon demand, in a form as requested by the Department. All documents, registers, records or logs maintained by Respondent must be maintained on Respondent's premises for three years.

33. If Respondent maintains any documents, registers, records or logs electronically, Respondent must produce such documents, records or logs to the Department for inspection upon demand in a form as requested by the Department.

L. Fines and Other Penalties

34. Respondent agrees to pay a fine of \$3,000 by certified check and/or money order pursuant to the Payment Plan attached to this CO.

35. Respondent shall incur a late fee of \$100 if Respondent does not pay the above fine by the date specified in the Payment Schedule/Agreement, and the entire balance (including the late fee) due under this CO shall be due immediately.

M. Consequences of Breach

36. Respondent acknowledges that any breach of this CO by Respondent or its agents shall: (i) be deemed grounds for revocation of Respondent's license; (ii) be assessed at the maximum penalties allowed by law; (iii) be deemed a separate, knowing violation of the Consumer Protection Law subject to the maximum penalties defined therein; (iv) be deemed proof that any person with an equity interest of ten (10) percent or more, or with significant managerial responsibility for the operation of Respondent's business, is not possessed of the integrity, honesty, and fair dealing required to hold a license issued by the Department; and (vi) require payment by Respondent of all costs and expenses associated with the Department's investigation and prosecution of the new violation.

37. Non-payment or untimely payment of the settlement fine shall constitute a breach and violation of this CO.

N. Miscellaneous

38. Respondent agrees to 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

39. Failure to utilize documents submitted to the Department as part of any license application or license renewal shall result in an additional fine of \$1,000.
40. Upon the termination of a license by revocation, expiration, denial, or surrender, Respondent shall immediately cease employment agency activities.
41. The acceptance of this CO by the Department shall not be deemed approval by the Department of any of Respondent's business practices, and Respondent shall make no representation to the contrary.
42. This matter will be considered settled upon execution of this CO and payment of the settlement sum as set forth above.

Accepted for Respondent,
 Velazquez, Indalecio
 d/b/a Velmex Employment Agency

Indalecio Velazquez
 Print name Employment

Velmex Agency
 Title

[Signature]
 Signature

08-17-2012
 Date

Accepted for Jonathan Mintz,
 Commissioner of Consumer Affairs
 for the City of New York by:

[Redacted]
 Print name

STAFF ATTORNEY
 Title

[Redacted]
 Signature

8/22/12
 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. License application requirements for employment agencies are available at www.nyc.gov/html/dca/html/licenses/034.shtml.



Payment Schedule/Agreement

Velazquez, Indalecio d/b/a Vel
75-12 Roosevelt Avenue, 2nd Fl.
Queens, NY 11372

Date: _____

Camis **41378807**

License #(s) # **1305011** # _____

Violation #(s) **1** **LL006000001**

2 **LL00525975** **3** _____ **4** _____

5 _____ **6** _____ **7** _____

8 _____ **9** _____ **1** _____

The New York City
Department of
Consumer Affairs
42 Broadway
New York, NY
10004-1716

212-487-4397

Jonathan Mintz,
Commissioner

Respondent **Indalecio Velazquez** agrees to pay

the New York City Department of Consumer Affairs ("DCA") the sum of **\$3,000.00**.

He/She has a balance of **\$2,000.00** plus the interest of **\$45.11** for the above

mentioned violation(s) as follows:

	Dates due	Amount	Dates due	Amount
Deposit	8/30/2012	\$1,000.00	_____	_____
	9/30/2012	\$1,022.56	_____	_____
	10/30/2012	\$1,022.56	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____

All payments must be made by check or money order, and must be sent to:
NYC Dept. of Consumer Affairs
ATTN: Collections Division
42 Broadway, 9th floor
New York, NY 10004

Please write the violation number(s) on the payment and attach a copy of Page 1 of this agreement with every payment.

By signing this agreement, Respondent agrees to cease all illegal unlicensed activities and immediately apply for the required license. If Respondent is not required to be licensed by DCA, Respondent agrees to cease all illegal activities. This payment agreement will include interest calculated at 1.5% per month added to the remaining principal.

If DCA does not receive one of the Respondent's scheduled payments subsequent to the initial payment within 5 days of its due date, DCA will add a \$50 late charge to the amount owed, due at the next scheduled payment. Associated interest charges will also apply to said late charge.

If Respondent is late making a second payment during the life of a pay-out agreement or becomes 30 days past due, Respondent will be assessed a second charge of \$100 and the agreement balance will automatically be accelerated, the entire balance thus becoming due immediately.

If Respondent's check for any payment in a pay-out agreement is returned by the bank for insufficient funds, Respondent will be assessed a bounced check charge (100% of the bank charge assessed to DCA) and the agreement balance will automatically be accelerated, the entire balance thus becoming due immediately.

Respondent agrees that if Respondent defaults on any payment provided for herein and if Respondent is a licensee of DCA, Respondent's license(s) will be automatically suspended. Respondent further waives any right to a hearing pursuant to Section 20-104(e), Chapter 1 Title 20 of the Administrative Code based upon such default.

If full payment of the fine amount is received by the Department within thirty (30) calendar days of the date of settlement, the 1.5% interest will be waived.

In the event that payments are received for this agreement after the decision has been vacated and the matter has been remanded for a new hearing, such payments will be held by the agency pending the outcome of the new hearing. The respondent will not be subjected to late fees if the decision is vacated. Upon issuance of a new decision, or if the respondent settles the charges rather than attending the hearing, the respondent will be notified of any fine modification and will receive a refund if payments received exceed the new fine amount.

Collections
For the Department of Consumer Affairs

212-487-4397
Agency Telephone Number

Indalecio Velazquez
Respondent (Principal)

Sole Owner
Title


Signed

7182052633
Telephone Number