

CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

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DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

– against –

WIDE VISIONS CONSULTING INC.

Respondent.
-----X

CONSENT ORDER

Violation Number: 5349344

1. The New York City Department of Consumer Affairs (the “Department or DCA”) served Wide Visions Consulting Inc. (“Respondent Company”) with a Notice of Hearing (“NOH”) on December 16, 2014 and an Amended Notice of Hearing (“Amended NOH”) on January 14, 2015, charging Respondent Company with violating New York City Administrative Code (“Code”) Section 20-101 et seq. (“License Enforcement Law”), Section 20-700 et seq. of the Code (“Consumer Protection Law”), New York City Charter Section 2203(h), and the New York State General Business Law (“GBL”) Section 172 by operating an employment agency without a license.
2. The Amended NOH is hereby amended to include Respondent Jeffrey Virella.
3. Respondent Jeffrey Virella hereby acknowledges receipt of the Amended NOH on January 28, 2015.
4. Respondents consent to this Consent Order (“CO”) to settle the above violation.
5. This CO supersedes all prior settlement agreements that Respondents may have entered into with the Department.
6. Respondent Jeffrey Virella, as Owner of Respondent Company, represents and certifies that he is duly authorized to settle this violation and to enter into this CO with the Department on behalf of himself and Respondent Company.
7. 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 Respondent Company.

DEFINITIONS

8. “Job applicant” or “applicant” means a consumer seeking employment.
9. “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 Respondents 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.
10. “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

11. Respondents shall comply with this CO, as well as all applicable laws and rules, including GBL Section 170 et seq. (the “Employment Agency Law”), New York City Administrative Code (“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.
12. Respondents shall immediately cease engaging in unlicensed employment agency activity. Respondents shall not engage in employment agency activity unless and until it obtains a license from the Department.
13. If Respondents become licensed, Respondents shall submit to the Department a complete application for an employment agency license, including proof of having obtained a surety bond or third-party bond as required by Section 177 of the GBL.
14. If Respondents become licensed, Respondents shall review the “Inspection Checklist: Employment Agencies,” as updated, attached as Exhibit A and available on the Department’s website at <http://www.nyc.gov/BusinessToolbox>.
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.*

A. Signage

16. If Respondents become licensed, Respondents shall display conspicuously in the reception or waiting area the "New York Employment Agencies Law" poster containing Sections 178, 181, 185 and 186 of the GBL and the New York State Anti-Discrimination poster. These posters are available at the Department's Licensing Center located at 42 Broadway, 1st Floor, New York, NY 10004.

B. Fees

17. Respondents shall not charge job applicants: a registration fee, an application fee, or a fee for arranging a job interview. Respondents may only charge a job applicant a fee, if the applicant is placed in a job.
18. Respondents shall not require job applicants to pay for any additional service or product, including but not limited to:
 - a. resume assistance;
 - b. certification courses or trainings of any kind;
 - c. uniforms, photographs, or product of any kind; and
 - d. publications, advertisings, or website listings.
19. Respondents shall not charge a fee, including a referral fee, to any job applicants who may require certifications or licenses, including but not limited to security guard, maintenance, or construction jobs, to any instructor or proprietary school. Respondents are prohibited from collecting a fee for such referral either directly from the consumer or indirectly from the instructor or proprietary school.
20. Respondents shall not make any statements to job applicants, orally or in writing, that the applicants could earn higher wages by paying for training courses, including but not limited to, security guard, FEMA or OSHA.
21. Respondents shall not limit a job applicant's right to collect a refund directly or indirectly, in writing or orally. Prohibited statements shall include, but not be limited to:
 - a. "No Refunds," or words to that effect;
 - b. "No Refunds after thirty days," or words to that effect;
 - c. The fee is "good for two referrals only," or words to that effect;
 - d. The fee is "good for two months only," or words to that effect.

C. Discriminatory Practices

22. Respondents shall comply fully with the obligations and conditions of Title VII of the Civil Rights Act, 42 U.S.C. Section 2000e *et seq.*; the New York State Human Rights Law, New York Executive Law Section 290 *et seq.*; and the New York City

Human Rights Law, Code Section 8-101 *et seq.*; and Section 5-248 of the Rules.

23. Respondents shall not:
- a. discriminate against an applicant because of the applicant's actual or perceived age, race, creed, color, national origin, gender, gender identity, disability, marital status, partnership status, sexual orientation or alienage or citizenship status in receiving, classifying, disposing or referring applicants for employment with employers;
 - b. ask questions, directly or indirectly, about a job applicant's actual or perceived age, race, creed, color, national origin, gender, gender identity, disability, marital status, partnership status, sexual orientation or alienage or citizenship status;
 - c. ask employers directly or indirectly, in writing or orally, if they prefer job applicants of a particular age or age range, race, creed, color, national origin, gender, gender identity, disability, marital status, partnership status, sexual orientation, or alienage or citizenship status;
 - d. advertise employment positions, directly or indirectly, in writing or orally, and 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, gender, gender identity, disability, marital status, partnership status, sexual orientation, or alienage or citizenship status, or express in any way that applicants who fall into one of the categories are preferred for an employment position.
24. If any employer seeks job applicants from Respondents for a position for which there is a specification, preference, or limitation as to applicants on account of actual or perceived age, race, creed, color, national origin, gender, gender identity, disability, marital status, partnership status, sexual orientation, or alienage or citizenship status, Respondents shall:
- a. reject all requests for any such referrals;
 - b. record such contact in their register pursuant to paragraph 40, with a notation that no referral was made due to an apparent violation of anti-discrimination laws; and
 - c. inform the Department in writing within seven (7) days of receiving such specification, preference, or limitation, including a copy of any document or form reflecting the request and including contact information for the employer. Respondents shall send the notification by mail to: Department of Consumer Affairs, Legal Division, 42 Broadway, 9th floor, New York, NY 10004, or by email to: regcmplea@dca.nyc.gov.
25. Respondents shall not base their decision to refer or place a job applicant on the applicant's current or past unemployment history.

D. Minimum Wage

26. Respondents shall comply with the Minimum Wage Act, New York Labor Law Section 650 *et seq.*
27. If Respondents decide to become licensed, Respondents shall obtain the following from all employers seeking job applicants and record the information in Respondents' applicant and employer register and job order:
 - a. hourly pay rate, including tip information, if any;
 - b. hours of work per day; and
 - c. hours of work per week.
28. Respondents shall not refer any job applicant to an employer that pays less than the current minimum wage. Information regarding current state and federal minimum wage is available at the New York State Department of Labor and United States Department of Labor's websites: www.labor.ny.gov and www.dol.gov.
29. If an employer seeks job applicants from Respondents for a position that pays less than minimum wage, Respondents shall:
 - a. reject all requests for any such referrals;
 - b. record such contacts in Respondents' register pursuant to paragraph 40, with a notation that no referral was made due to an apparent violation of wage and hour laws; and
 - c. inform the Department in writing within seven (7) days of receiving such a request, including a copy of any document or form reflecting the request and proposed hourly wage and including contact information for the employer. Respondents shall send the notification by mail to: Department of Consumer Affairs, Legal Division, 42 Broadway, 9th floor, New York, NY 10004, or by email to: regcmplea@dca.nyc.gov.

E. Job Orders

30. Respondents shall not send or refer job applicants to an employer without first verifying from a representative of the employer that the job opening is current. Respondents shall verify job openings no less once every seven (7) consecutive days.
31. For each job order received from an employer, Respondents shall record information about the position's hours and wages as required by paragraph 27.

F. Advertising

32. Respondents shall not advertise that they can "guarantee" jobs or placement.

33. Respondents shall not advertise that any employment agency is “no fee,” unless it is an employer fee paid employment agency, as defined in Section 191 of the GBL.
34. Respondents shall disclose all potential fees that may be required in advertisements, including fees for job training, referral services or job placement services.

G. Documents

35. If Respondents decide to become licensed, Respondents shall provide all documents and forms provided to job applicants in English and in every language in which Respondents advertise or conduct business with consumers.

1. Application Forms

36. If Respondents decide to become licensed, Respondents’ application form shall include:
 - a. the word “Application” shall be stated clearly and conspicuously at the top;
 - b. the job applicant’s first and last name;
 - c. the job applicant’s mailing address, telephone number, and email address;
 - d. the position job applicant is seeking; and
 - e. the fee(s) or deposit paid by job applicant.
37. If Respondents decide to become licensed, 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

This Application Form is a separate document from a Contract. This Application Form may not serve as a substitute for a Contract. The law requires employment agencies to give you a Contract.

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

- ask you questions about your age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, or alienage or citizenship status;
- 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.

YOU ARE ENTITLED TO A REFUND. IF A REFUND IS NOT MADE WITHIN SEVEN (7) DAYS AFTER A DEMAND OR IF YOU HAVE A COMPLAINT ABOUT THIS EMPLOYMENT AGENCY OR NEED MORE INFORMATION, CALL 3-1-1 OR VISIT

www.nyc.gov/consumers.

2. Contracts

38. If Respondents decide to become licensed, Respondents shall provide every job applicant with the Department's Model Contract, as updated, attached as Exhibit B and available on the Department's website at: <http://www.nyc.gov/BusinessToolbox>. Respondents shall provide all information and leave no spaces blank in every contract Respondents provide to an applicant.

3. Receipts

39. If Respondents become licensed, Respondents shall provide every job applicant who pays a fee with the Department's Model Receipt, as updated, attached as Exhibit C and available on the Department's website at <http://www.nyc.gov/BusinessToolbox>. Respondents shall provide all information and leave no spaces blank in every receipt Respondents provide to an applicant.

4. Register and Refund Log

40. If Respondents become licensed, Respondents shall record in the Department's Model Register and Refund Log information regarding every applicant who pays a fee, regardless of whether placed in a job, and every employer who pays a fee or to whom applicants are referred. The Model Register and Refund Log is attached as Exhibit D and available on the Department's website at: <http://www.nyc.gov/BusinessToolbox>.
41. If Respondents become licensed, Respondents shall record every instance when an applicant requests a refund or Respondents provide a refund in the Department's Model Register and Refund Log.

5. Statement of Employee Rights and Employer Responsibilities

42. If Respondents become licensed, Respondents shall provide every job applicant seeking employment as a domestic or household employee a readable copy of the Department's Statement of Employee Rights and Employer Responsibilities Form, attached as Exhibit E and made available on the Department's website at: <http://www.nyc.gov/BusinessToolbox>.

6. Statement of Job Conditions

43. If Respondents become licensed, Respondents shall provide every job applicant seeking employment as a domestic or household employee with the Department's approved Job Description Form (Statement of Job Conditions), attached as Exhibit F

and available on the Department's website at: <http://www.nyc.gov/BusinessToolbox>.

COMPLIANCE AND TRAINING

44. If Respondents become licensed, Respondents shall submit to the Department within 60 days of being licensed, the following records covering a 30 consecutive day period beginning one full month after being licensed:
 - a. applicant and employer register and refund log, attached to this CO as Exhibit D;
 - b. job orders received from employers;
 - c. contracts executed with every applicant, attached to this CO as Exhibit B;
 - d. receipts provided to applicants, attached to this CO as Exhibit C;
 - e. Statement of Employee Rights and Employer Responsibilities provided to applicants and signed by employers, attached to this CO as Exhibit E; and
 - f. Statement of Job Conditions provided to applicants for domestic or household employment, attached to this CO as Exhibit F.
45. If Respondents become licensed, if the Department conducts an employment agency training in the future, the owner or an employee of Respondents with management responsibility shall attend the training on a date and time set forth by the Department.
46. If Respondents become licensed, Respondents shall train their staff on the requirements of this CO, and all applicable laws and rules related to employment agencies operating in New York City, within two (2) days of executing this CO and/or the new staff/employee's start date.
47. If Respondents become licensed, Respondents shall notify the Department within ten (10) days of any pending action, proceeding, or investigation by a government agency against Respondents. Respondents shall send the notification by mail to: Department of Consumer Affairs, Legal Division, 42 Broadway, 9th floor, New York, NY 10004, or by email to: regcemplea@dca.nyc.gov.
48. If Respondents become licensed, Respondents shall make all documents, registers, job orders, records or logs required to be maintained by this CO and applicable laws available for inspection at the Department's offices or at Respondents' place of business upon demand, in a form as requested by the Department. All documents, registers, records, or logs maintained by Respondents must be maintained on Respondents' premises for three years, except job orders shall be maintained for one year from the date received.
49. In response to any Department issued Subpoena Duces Tecum or investigation, Respondents shall provide truthful and complete documents and forms provided to job applicants, including but not limited to application forms, contracts, receipts,

Statement of Employee Rights and Employer Responsibilities and Statement of Job Conditions.

50. Respondents shall not falsify or allow to be falsified any document or form, including but not limited to forms, contracts, receipts, registers, Statement of Employee Rights and Employer Responsibilities and Statement of Job Conditions.

LICENSING

51. Upon the termination of Respondents' license by revocation, suspension, expiration, denial, surrender, cancellation, or operation of law, Respondents shall immediately cease employment agency activities.
52. If the Department finds that Respondents engaged in unlicensed activity, there shall be a presumption of continuous unlicensed activity from the date Respondents' license was revoked, suspended, denied, cancelled, surrendered or became expired to the date hearing or settlement.

PENALTY

53. Respondents shall provide \$5,413 in restitution to individual consumers in the amounts specified below. Respondents shall deliver such payments to the Department upon execution of this CO. If within six months from the execution of this CO the Department has been unable to locate any consumer(s) for whom Respondents provided restitution, the restitution payments designated for each consumer shall be deposited into the Consumer Restitution Trust Fund referenced in paragraph 54 below. Payments shall be made individually to the following consumers, by certified check or money order:

- a. [REDACTED] \$588
- b. [REDACTED] \$540
- c. [REDACTED] \$540
- d. [REDACTED] \$539
- e. [REDACTED] \$539
- f. [REDACTED] pt: \$100
- g. [REDACTED] \$439
- h. [REDACTED] \$350
- i. [REDACTED] 640
- j. [REDACTED] \$639
- k. [REDACTED] h: \$399
- l. [REDACTED] \$100

54. Respondents shall pay \$6,000 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. At the end of this period, any funds remaining in the Trust Fund shall revert to the Department as fines for unlicensed employment agency activity. Payment shall be made by certified check or money order. Respondents shall mail or bring the payment and CO to: Department of Consumer Affairs, Legal Division, 42 Broadway, 9th floor, New York, NY 10004. Respondents shall make payments into the Trust Fund according to the following schedule:

- a. \$1,500 on or before March 15, 2015;
- b. \$1,500 on or before April 15, 2015;
- c. \$1,500 on or before May 15, 2015; and
- d. \$1,500 on or before June 15, 2015.

55. Respondents shall pay \$3,000 in fines to the Department for unlicensed employment agency activity. Payment shall be made by certified check or money order. Respondents shall mail or bring the payment to: Department of Consumer Affairs, Legal Division, 42 Broadway, 9th floor, New York, NY 10004. Respondents shall pay the \$3,000 fine to the Department according to the following schedule:

- a. \$1,500 on or before July 15, 2015; and
- b. \$1,500 on or before August 15, 2015.

CONSEQUENCES OF BREACH

56. 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.

57. If Respondents fail to produce the documents or records required by paragraph 44 (If Respondents become licensed), in addition to paying the \$1,000 penalty required by paragraph 56, the Department may:

- a. suspend Respondents' license, without a hearing, until Respondents produce the records and/or
- b. seek revocation of Respondents' license.

58. 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.

59. If Respondents fail to record complete information in their applicant and employer register for every applicant from whom they collected a fee and for every employer from whom they either collected a fee or referred applicants, Respondents shall be ordered to pay a penalty of \$500.

60. If at any time Respondents engage in any unlicensed activity, fails to maintain its

license for the duration of its business practices, or files a license or renewal application that is denied, the Department, without further notice to Respondents, shall be entitled to: (i) seal Respondents' business premises; (ii) impose fines of up to one hundred dollars (\$100.00) per day for each day of unlicensed activity; and (iii) remove, seal, or make inoperable any items or goods sold, offered for sale, available for public use, or utilized in the operation of unlicensed activity.

WAIVER OF APPEALS

61. 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

62. The acceptance of this CO by the Department shall not be deemed approval by the Department of any of Respondents' business practices, and Respondents shall make no representation to the contrary.
63. This matter will be considered settled upon execution of this CO and payment of the consumer restitution (paragraph 53), trust fund payments (paragraph 54), and settlement fine (paragraph 55) required by this CO.

64. This CO does not resolve any 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 aggrieved consumers.

Accepted for Respondent Company
Wide Visions Consulting Inc.

Jeffrey Virella
Print name

Director
Title

[Signature]
Signature

2-6-15
Date

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

[Redacted]
Print name

Special Counsel
Title

[Redacted]
Signature

2/6/15
Date

Accepted for Respondent
Jeffrey Virella

Jeffrey Virella
Print name

[Signature]
Signature

2-6-15
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.

Exhibit A

Inspection Checklist: Employment Agencies

Do you own an employment agency or a talent agency?

Does your business find jobs or engagements for artists, or help employers find employees for a fee?

Use this checklist to learn what our inspectors look for and help avoid violations:

	Requirement	Do you meet this requirement?
	Licenses	
1	<p>Your business must have a valid DCA <u>Employment Agency</u> license.</p> <p>Tip: The following businesses do not need an Employment Agency license:</p> <ul style="list-style-type: none"> ▪ <i>Temporary Employment Agency:</i> You employ the workers you place in temporary jobs (i.e., you pay their salaries, provide them with benefits, etc.) ▪ <i>Theatrical Personal Manager:</i> Your primary business is managing artists, and any employment services you provide are incidental to your management of the artists. <p>Tip: If your primary business is finding employment or engagements for artists for a fee, then you are a “theatrical employment agency” and must be licensed.</p> <ul style="list-style-type: none"> ▪ <i>Certain Employer Fee Paid Agencies:</i> Your agency places only commercial, clerical, executive, administrative, and professional applicants, and never charges the applicant a fee of any kind. <p>Tip: If you fit this category, you do not need a license, but you must comply with all sections of the New York State <u>Employment Agency Law</u> relating to Employer Fee Paid Agencies.</p>	<input type="checkbox"/> Yes
2	<p>DCA's new combined license and complaint sign must be posted where all customers can see it. Until you receive the new sign, which DCA is sending during the license renewal period, you must continue to post both your license and the complaint sign.</p> <p>Note: DCA combined the license and the complaint sign, previously separate documents, into one consolidated sign. New licensees and licensees that renew after October 15, 2013 will receive the new sign. Renewing licensees must remove the old license document and complaint sign that DCA previously provided and post the new combined sign. For more information about this new regulation, go to nyc.gov/consumers.</p>	<input type="checkbox"/> Yes

Inspection Checklist: Employment Agencies

	Requirement	Do you meet this requirement?
3	<p>The business name, address, and "Department of Consumer Affairs" or "DCA" license number must be on all of the following:</p> <ul style="list-style-type: none"> ■ Contracts ■ Receipts ■ Advertisements ■ Letterhead ■ Correspondence ■ Business cards ■ Other printed materials 	<input type="checkbox"/> Yes
4	<p>The business must use the word "agency" to describe its business on all of the following:</p> <ul style="list-style-type: none"> ■ Contracts ■ Receipts ■ Advertisements ■ Letterhead ■ Correspondence ■ Business cards ■ Other printed materials 	<input type="checkbox"/> Yes
5	<p>You cannot use a name, sign, or advertisement that would cause consumers to confuse your business with a government agency.</p>	<input type="checkbox"/> Yes
	<p>Signs</p>	
6	<p>All of the following signs must be clearly posted in the main room or reception area:</p> <p>DCA's <u>New York Employment Agencies Law Poster</u> in English and other languages customers can understand</p> <div style="display: flex; justify-content: space-around;">   </div> <p><u>U.S. Anti-Discrimination Poster</u></p> 	<input type="checkbox"/> Yes

Inspection Checklist: Employment Agencies

	Requirement	Do you meet this requirement?
	<p><u>New York State Anti-Discrimination Poster</u></p>  <p>Tip: Call 311 to order DCA's Employment Agency Law Poster, which is currently available in English and Spanish. If you need one of the required Anti-Discrimination posters, call 311 and ask to be transferred to DCA with a question about your existing Employment Agency license.</p>	
	Contracts and Applications	
7	Written contracts must be provided to every person who applies for employment.	<input type="checkbox"/> Yes
8	Copies of contracts must be kept by employment agencies for three years and must be immediately available for inspection.	<input type="checkbox"/> Yes
9	<p>Each contract must include all of the following:</p> <ul style="list-style-type: none"> ■ Provisions of New York General Business Law Section 185 and Section 186 ■ Name of the employment agency ■ Address of the employment agency ■ Kind of work that will be done ■ Employment agency's fee ■ Name of the employment agency staff person who places the applicant in the job <p>Tip: Use DCA's Model Contract available in <u>English</u> and <u>Spanish</u> at nyc.gov/businesstoolbox.</p>	<input type="checkbox"/> Yes
	Receipts	
10	Written receipts must be given to the applicant for all fees, deposits, or any other payments.	<input type="checkbox"/> Yes
11	Copies of all receipts must be kept by employment agencies for three years and must be available for immediate inspection.	<input type="checkbox"/> Yes

Inspection Checklist: Employment Agencies

	Requirement	Do you meet this requirement?
12	<p>Each receipt must include all of the following:</p> <ul style="list-style-type: none"> ■ Name of the applicant ■ Name of the employment agency ■ Address of the employment agency ■ Date ■ Amount of the fee, deposit, or other payment ■ Reason for the fee ■ Signature of staff member who received the payment ■ <i>(For all out-of-state applicants for domestic or household employment)</i> Copy of New York General Business Law Section 184 printed on or attached to the receipt <p>Tip: Use DCA's Model Receipt available in English and Spanish at nyc.gov/businesstoolbox.</p>	<input type="checkbox"/> Yes
	Register Book	
13	<p>A register book must be kept with all of the following information, written in English, about every applicant:</p> <ul style="list-style-type: none"> ■ Date of application for employment ■ Date the applicant started work ■ Name and address of every applicant who paid a fee or deposit ■ Amount of the fee or deposit paid ■ Service for which each fee or deposit was paid 	<input type="checkbox"/> Yes
14	<p>The register book must also include all of the following information, written in English, about employers:</p> <ul style="list-style-type: none"> ■ Name and address of every employer who pays a fee ■ Name and address of every employer to whom every paying applicant is referred ■ Date each employer requested or agreed to accept applicants ■ Type of positions for which applicants are requested ■ Names of paying applicants who were sent to the employer ■ Amount of the fee or deposit ■ Agreed wages or compensation for the jobs 	<input type="checkbox"/> Yes

Inspection Checklist: Employment Agencies

	Requirement	Do you meet this requirement?
	Other	
15	<p>Agencies that place domestic or household workers must provide them with a "Domestic or Household Employees: Statement of Employee Rights and Employer Responsibilities."</p> <p>Tip: Download Statement in English or Spanish at nyc.gov/businesstoolbox.</p>	<input type="checkbox"/> Yes
16	<p>Agencies that place nurses must issue cards to nurses that contain each of the following:</p> <ul style="list-style-type: none"> ■ Nurse applicant's name, address, and salary ■ Whether the applicant is a Registered Professional Nurse (RPN) or a Licensed Practical Nurse (LPN) ■ Number of current Department of Education registration certificate ■ That the nurse applicant's educational qualifications and experience are on file in the registry and can be provided to the employer 	<input type="checkbox"/> Yes

Updated 10/09/2013



Bill de Blasio
Mayor

**Department of
Consumer Affairs**

Julie Menin
Commissioner

42 Broadway
New York, NY
10004

Visit nyc.gov and
search "Business
Toolbox"

Contact 311
(212) NEW-YORK
(Outside NYC)

New York City businesses must comply with all relevant federal, State, and City laws and rules, which are available in DCA's Business Toolbox. Businesses are responsible for knowing and complying with current regulations that affect their business.

Exhibit B

Contract

Employment Agency Information

Name of Employment Agency _____

Telephone Number _____ License Number _____

Name of Agency Staff or Salesperson _____

Address _____

Job Applicant Information

Name of Job Applicant _____

Telephone Number _____

Address _____

Type of Work and Fees (Check only one and complete section.)

Agency can only charge a fee for job placement. This means the Agency can only charge you a fee after it gets you a job. Agency CANNOT charge a fee for:

- setting up interviews
- trainings
- reviewing resumes
- any services besides placing Applicant in a job
- photographs

Domestic/household work and unskilled/untrained manual work

(Classes A, A*, A**, A*** depending on whether Agency recruited Applicant in another state or country)

- Agency can charge a deposit or advance fee (unless Applicant is recruited from Hawaii, Alaska, another country).
- By law, Agency must refund the deposit or advance fee if Applicant is not placed in a job.
- If Applicant is placed in a job, advance fees or deposits must be credited to the Applicant's fee.
- Was an advance fee or deposit paid? Yes _____ No _____
- If Yes, amount of fee: \$ _____

Trained or skilled industrial workers or mechanics (non-professional) (Class A1)

Agency may charge a deposit or advance fee.

- Agency can charge a deposit or advance fee (unless Applicant is recruited from Hawaii, Alaska, another country).
- By law, Agency must refund the deposit or advance fee if Applicant is not placed in a job.
- If Applicant is placed in a job, advance fees or deposits must be credited to the Applicant's fee.
- Was an advance fee or deposit paid? Yes _____ No _____
- If Yes, amount of fee: \$ _____

Theatrical (e.g., actors, singers, models) (Class C)

By law, Agency cannot charge any deposit or advance fee.

Nursing (Class D)

By law, Agency cannot charge any deposit or advance fee.

All other work, including commercial, clerical, executive, administrative and professional employment and employment outside the continental United States (Class B)

By law, Agency cannot charge any deposit or advance fee.

Fees

Fee for Job Placement

(See attached Sections 185 and 186 for maximum fees Agency can charge by law.)

- Check here if the fee will be paid by the employer.
- Flat Placement Fee Total Amount: \$ _____
- Percent of Salary: _____% of _____ Months or Weeks (circle one)

Fee Payment Schedule

The fee shall be paid:

- in ten equal weekly installments payable at the end of each of the first ten weeks.
- in five equal installments payable at the end of each of the first five pay periods.
- other _____

Note: By law, Agency cannot require Applicant to pay the fee any faster. Any other payment plan must give Applicant MORE time to pay.

Important Terms and Requirements

RECEIPTS: Agency will provide Applicant with a separate, written receipt for every deposit, fee or other charge collected by it, advance or otherwise.

FEE AMOUNTS: The maximum fees that Agency can charge are limited by law depending on the job. Agency shall not charge fees inconsistent with Sections 185 and 185-a of the General Business Law. See attached fee schedule for more information.

REFUND OF FEES: Agency must RETURN IN FULL all fees, deposits or other payments within seven (7) days of Applicant's request for a refund if Agency has not placed Applicant in a job. If Applicant has been placed in a job, refund amounts shall be consistent with Section 186 of the General Business Law (attached).

FEE WHEN APPLICANT FAILS TO APPEAR FOR WORK OR IS TERMINATED: Agency shall not charge any fees inconsistent with Section 185 of the General Business Law in the event that the Applicant fails to report to work or is terminated, regardless of the circumstances.

STATEMENT OF APPLICANT'S RIGHTS: Agency will provide a Household or Domestic Applicant with a "Statement of Employee Rights."

LEGITIMATE EMPLOYMENT: Agency will only send Applicant to legitimate job listings obtained from the employer that reflect current job openings. Agency will contact the employer and verify the availability of the job before referring Applicant.

WORK CONDITIONS: Agency will provide the following information prior to placement: (1) the hours per week the job applicant is expected to work; (2) whether the job applicant will be paid on a weekly, bi-weekly, or monthly basis; and (3) whether there are any health and/or safety risks involved and what steps may be taken to prevent or control those risks.

NOTICE TO JOB APPLICANT -- READ BEFORE SIGNING

Do not sign this contract before you have read it or if any spaces are left blank. The employment agency must give you a signed copy of this contract at the time you sign it.

IMPORTANT: It is against the law for the 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. YOU ARE ENTITLED TO A REFUND. IF A REFUND IS NOT MADE WITHIN SEVEN (7) DAYS OR YOU HAVE A COMPLAINT OR NEED MORE INFORMATION, CALL 3-1-1.

Applicant's Signature

Date

Employment Agency Representative's Signature

Date

**EMPLOYMENT AGENCY
LAW**

§ 185. FEES

1. CIRCUMSTANCES PERMITTING FEE.

An employment agency shall not charge or accept a fee or other consideration unless in accordance with the terms of a written contract with a job applicant, except (a) for class "A" and "A-1" employment, and except after such agency has been responsible for referring such job applicant to an employer or such employer to a job applicant and where as a result thereof such job applicant has been employed by such employer; and (b) for class "C" employment: (i) after an agency has been responsible for referring an artist to an employer or such employer to an artist and where as a result thereof such artist has been employed by such employer; or (ii) after an agency represents an artist in the negotiation or renegotiation of an original or preexisting contract and where as a result thereof the artist enters into a negotiated or renegotiated employment contract. For class "C" employment pursuant to this paragraph, an employment agency shall provide an artist with a statement setting forth in a clear and concise manner that provisions of this section and section one hundred eighty-six of this article. The maximum fees provided for herein for all types of placements or employment may be charged to the job applicant and a similar fee may be charged to the employer provided, however, that with regard to placements in class "B" employment, a fee of up to one and one-half times the fee charged to the job applicant may be charged to the employer. By agreement with an employment agency, the employer may voluntarily assume payment of the job applicant's fee. The fees charged to employers by any licensed person conducting an employment agency for rendering services in connection with, or for providing employment in classes "A", "A-1" and "B", as hereinafter defined in subdivision four of this

section where the applicant is not charged a fee shall be determined by agreement between the employer and the employment agency. No fee shall be charged or accepted for the registration of applicants for employees or employment.

2. SIZE OF FEE; PAYMENT SCHEDULE.

The gross fee charged to the job applicant and the gross fee charged to the employer each shall not exceed the amounts enumerated in the schedules set forth in this section, for any single employment or engagement, except as hereinabove provided; and such fees shall be subject to the provisions of section one hundred eighty-six of this article. Except as otherwise provided herein, and except for class "C" employment, an employment agency shall not require an applicant while employed in the continental United States, and paid weekly to pay any fee at a rate greater than in ten equal weekly installments each of which shall be payable at the end of each of the first ten weeks of employment, or if paid less frequently, in five equal installments, each of which shall be payable at the end of the first five pay periods following his employment, or within a period of ten weeks, whichever period is longer. An employer's fee shall be due and payable at the time the applicant begins employment, unless otherwise determined by agreement between the employer and the agency.

3. DEPOSITS, ADVANCE FEES.

Notwithstanding any other provisions of this section, an employment agency may not require a deposit or advance fee from any applicant except an applicant for class "A" or class "A1" employment, and only to the extent of the maximum fees hereinafter provided. Such deposit or advance fee shall be offset against any fee charged or accepted when such employment is obtained. Any excess above the lawful fee shall be returned without demand therefor, immediately after the employment agency has been notified that such employment has been obtained; and all of such deposit or advance

fee shall be returned immediately upon demand therefor, if at the time of the demand such employment has not been obtained.

4. TYPES OF EMPLOYMENT. For the purpose of placing a ceiling over the fees charged by persons conducting employment agencies, types of employment shall be classified as follows:

CLASS "A"--domestics, household employees, unskilled or untrained manual workers and laborers, including agricultural workers;

(See § 184 for requirements concerning out-of-state domestic workers.)

CLASS "A1"--non-professional trained or skilled industrial workers or mechanics;

CLASS "B"--commercial, clerical, executive, administrative and professional employment, all employment outside the continental United States, and all other employment not included in classes "A", "A1", "C" and "D";

CLASS "C"--theatrical engagements;

CLASS "D"--nursing engagements as defined in article one hundred thirty-nine of the education law.

5. FEE CEILING: For a placement in class "A" employment the gross fee, including the deposit if any, shall not exceed, in percentage of the first full month's salary or wages, the following:

- Where no meals or lodging are provided 10%
- Where one meal per working day is provided 12%
- Where two meals per working day are provided 14%
- Where three meals and lodging per working day are provided 18%

Where all parties to the employment agreement understand or agree at the time the employment is entered into that it shall be for a period shorter than one month, the gross fee shall not exceed ten per cent, twelve per cent, fourteen per cent or eighteen per cent respectively of the salary or wages actually paid.

6. FEE CEILING: For a placement in Class "A1" employment the gross fee shall not exceed one week's wages where all parties to the employment agreement understand or agree at the time the employment is entered into that it shall be for a period for ten weeks or more. Where all parties to the employment contract agree and understand at the time the employment contract is entered into that it shall be for a period shorter than ten weeks, the gross fee shall not exceed ten per cent of the wages or salary actually received.

7. FEE CEILING: For a placement in Class "B" employment the gross fee shall not exceed, in percentage of the first full month's salary or wages, the following:

Where such first full month's salary or wages is

- Less than \$ 750 25%
- At least \$ 750 but less than \$ 950 35%
- At least \$ 950 but less than \$ 1150 40%
- At least \$ 1150 but less than \$ 1350 45%
- At least \$ 1350 but less than \$ 1500 50%
- At least \$ 1500 but less than \$ 1650 55%
- At least \$ 1650 or more . 60%

Provided however, that where the placement is for employment in which the applicant will be paid on a straight commission basis or on the basis of a drawing account plus commissions, the gross fee shall be based on percentages in the above schedule applied to an amount equivalent to one-twelfth of the estimated first year's earnings, as estimated by the employer.

Where all parties to the employment contract agree and understand at the time the employment contract is entered into that it shall be for a period shorter than four months the gross fee shall not exceed fifty percent of the fee prescribed in the schedule in this subdivision or ten

percent of the wages or salary actually received, whichever is less.

8. FEE CEILING: For a placement in class "C" employment the gross fee shall not exceed, for a single engagement, ten per cent of the compensation payable to the applicant, except that for employment or engagements for orchestras and for employment or engagements in the opera and concert fields such fees shall not exceed twenty per cent of the compensation.

9. FEE CEILING: For a placement in class "D" employment the gross fee shall not exceed, for a single engagement, the following:

(1) FOR PRIVATE NURSING DUTY, five per cent of the salary or wages received each week through the first ten weeks of that engagement only, and such fee shall be due and payable at the end of each such week:

(2) FOR ANY OTHER NURSING DUTY, the amount of the first week's salary or wages unless the first year's computed salary or wages to be derived for at least one year's employment is twenty-five hundred dollars or more, in which event the gross fee shall not exceed, in percentage of such salary or wages, the following:

Where such first year's salary or wages is

- At least \$ 2500 but less than \$ 3000 2 1/2%
- At least \$ 3000 but less than \$ 3500 3%
- At least \$ 3500 but less than \$ 4000 3 1/2%
- At least \$ 4000 but less than \$ 4500 4%
- At least \$ 4500 but less than \$ 5000 4 1/2%
- \$5000 or more 5%

§ 186. RETURN OF FEES

1. EXCESSIVE FEE: Any employment agency which collects, receives or

retains a fee or other payment contrary to or in excess of the provisions of this article, shall return the fee or the excess portion thereof within seven days after receiving a demand therefor.

2. FAILURE TO REPORT: If a job applicant accepts employment and thereafter fails to report for work, the gross fee charged to such applicant shall not exceed twenty-five per cent of the maximum fee allowed by section one hundred eighty-five of this article, provided however, if the applicant remains with his same employer, the fee shall not exceed fifty per cent. If a job applicant accepts employment and fails to report for work, no fee shall be charged to the employer.

3. TERMINATION WITHOUT EMPLOYEE'S FAULT. If a job applicant accepts employment and reports for work, and thereafter such employment is terminated without fault of the employee, the gross fee charged to such employee and to the employer each shall not exceed ten per cent of the salary or wages received by such employee, and in no event shall such fee exceed the maximum fee allowed by section one hundred eighty-five of this article. However, if such employee is a domestic or household employee recruited from a state outside of this state the fee of the employer shall not exceed thirty-three and one-third percent of the wages or salary actually earned.

4. TERMINATION UNDER ALL OTHER CIRCUMSTANCES: If a job applicant accepts employment and reports for work, and thereafter such employment is terminated under any other circumstances, the gross fee charged to such employee and the employer each shall not exceed fifty per cent of the salary or wages received by such employee, and in no event shall such fee exceed the maximum fee allowed by section one hundred eighty-five of this article.

For more information or to file a complaint, call 3-1-1 or visit us at www.nyc.gov/consumers

Exhibit C

Receipt

Employment Agency Information (to be completed by Employment Agency)		
Name of Employment Agency _____		
Telephone Number _____ License Number _____		
Name of Agency Staff or Salesperson _____		
Address _____ _____		
Name of Applicant:		Date:
Name of Employer (if known):		
Address of Employer:		Telephone:
E-mail Address, if available:		
Job Title:	Salary:	Employment Class:
Amount of Fee:		
Purpose of Fee:		
<p>It is against the law for the 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. YOU ARE ENTITLED TO A REFUND. IF A REFUND IS NOT MADE WITHIN SEVEN (7) DAYS OR YOU HAVE A COMPLAINT OR NEED MORE INFORMATION, CALL 3-1-1.</p>		

Applicant's Signature

Date

I confirm that any and all fees the Employment Agency requires Applicant to pay are consistent with the law.

Employment Agency Representative's Signature

Date

Exhibit D

Exhibit E

Domestic or Household Employees: Statement of Employee Rights and Employer Responsibilities

This handout describes some of the basic rights of domestic or household employees and some responsibilities that their employers must fulfill under New York City, New York State, and federal law. Please note that this document does not list every employee right or employer responsibility. For more information about a specific right or responsibility, you should contact the relevant agency listed on the back.

Minimum Wage: All employees are entitled to be paid at least the minimum wage of \$8 per hour.

Overtime: Employees who work overtime are entitled to be paid at one and one-half times the regular rate of pay. An employee who does not live in the employer's home is entitled to this overtime rate after working 40 hours per week. An employee who lives in the employer's home is entitled to this overtime rate after working 44 hours per week.

Timely Payment: Employees must be paid their full salary on a weekly basis, and within seven calendar days of the concluding workweek. Employers must also provide a statement that shows the employee's gross wages, deductions, and net wages.

Time Off: Employees are entitled to at least one day of rest (24 consecutive hours) every week and at least three days of paid rest after one year of work for the same employer.

Paid Sick Leave: Employees who have worked for the same employer for at least one year and who work more than 80 hours a calendar year in New York City are entitled to two days of paid sick leave. Paid Sick Leave is in addition to the three days of paid rest required under New York State Labor Law.

Meals and Lodging: There are minimum standards for meals and lodging which, in part, provide that employees who work a six-hour shift are entitled to a meal break of at least 30 minutes during the course of the shift.

Notice: Employers must notify employees at the time of hiring of the rate of pay and regular payday. Employers must give employees the required Notice of Employee Rights created by the Department of Consumer Affairs (DCA). The notice outlines employees' minimum rights under New York City's Paid Sick Leave Law. Additionally, employers must notify employees in writing of the employer's policy on sick leave, vacation, personal leave, holidays, and hours of work. Employers must also notify employees in writing of the date of termination from employment and the date of cancellation of employee benefits, not more than five working days after the date of termination from employment.

Record Keeping: Employers must maintain accurate records for three years, showing the hours worked; the rate of pay; the deductions taken from wages; and the name, address, and date of birth of every employee.

Social Security: Social Security and Medicare taxes must be paid for all employees earning more than \$1,400 annually. Employees must pay half of the amount due, or 7.65% of the gross wages, which is to be deducted from wages earned. Additionally, employers must pay half of the amount due, or 7.65% of the gross wages, which is to be paid from the employer's own funds. Employers must obtain an employer i.d. number from the Social Security Administration and must keep an accurate accounting of tax deductions.

Income Taxes: Employers are not required to withhold income taxes from an employee's wages unless the employee asks the employer to do so in writing and both parties agree.

Workers' Compensation: Employers must buy workers' compensation coverage for employees who work more than 40 hours per week. Workers' Compensation provides compensation for injuries or death that occur during the course of employment. Employers cannot deduct the cost of these payments from the employee's salary.

Disability Benefits Insurance: Employees who work at least 40 hours per week and are injured or become sick or pregnant outside of the workplace and miss more than seven days of work as a result are entitled to disability benefits.

Unemployment Insurance: Employees who earn more than \$500 in a quarter of a calendar year are covered by unemployment insurance if they lose their jobs. Employers must make quarterly unemployment insurance payments following a formula set by the New York State Department of Taxation and Finance. Employers cannot deduct the cost of these payments from the employee's salary.

No Retaliation: Employers are prohibited from retaliating against employees who assert their rights under City, state, and federal law.

If you have questions about these rights or responsibilities and how they apply to you, contact the following government agencies:

U.S. Department of Labor: 212-264-8185

U.S. Social Security Administration: 212-264-2500

Internal Revenue Service: 1-800-829-1040

New York State Department of Labor: 1-888-52-LABOR (1-888-525-2267)

New York State Workers' Compensation Board: 718-802-6933

New York City Department of Consumer Affairs: Call 311 (212-NEW-YORK outside NYC). Employees can also email PaidSickLeave@dca.nyc.gov with questions about New York City's Paid Sick Leave Law.

Exhibit F

Domestic or Household Employees: Job Description Form (Statement of Job Conditions)

An Employment Agency must give a completed Job Description Form with all of the information below to every job applicant the Agency refers to a position as a Domestic or Household Employee.

Date ____/____/____

Amount of Fee \$ _____

Employment Agency Information
Name of Employment Agency _____
Name of Agency Staff _____
Telephone Number _____ DCA License Number _____
Address _____

Job Information
Name of Employer _____
Telephone Number _____ Email Address _____
Address _____

Hourly Pay Rate \$ _____ (minimum \$8/hour)	Employer will provide (check box that applies):
Lodging: <input type="checkbox"/> Live In <input type="checkbox"/> Live Out	<input type="checkbox"/> No meals <input type="checkbox"/> One meal per working day <input type="checkbox"/> Two meals per working day <input type="checkbox"/> Three meals per working day

Start Date ____/____/____	_____ Hours/Day
Employment Status (check all that apply):	Weekly Schedule (check all that apply):
<input type="checkbox"/> Part-time <input type="checkbox"/> Full-time <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent	<input type="checkbox"/> Monday <input type="checkbox"/> Tuesday <input type="checkbox"/> Wednesday <input type="checkbox"/> Thursday <input type="checkbox"/> Friday <input type="checkbox"/> Saturday <input type="checkbox"/> Sunday

Description of Duties _____

