

THE .JOBS CHARTER COMPLIANCE COALITION
Attention: John Bell
Chairman & CEO, Boxwood Technology
11350 McCormick Road, Executive Plaza III - Suite 101
Hunt Valley, MD 21031

January 11, 2012

Dr. Stephen D. Crocker
Chairman of the Board of Directors
Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601

Re: Disqualification of Employ Media and its Principals from Applying for New gTLDs

Dear Dr. Crocker:

The .JOBS Charter Compliance Coalition (the “Coalition”) submits this letter to you regarding the anticipated application of Employ Media LLC and/or any of its principals (collectively, “Employ Media”) for a new generic top-level domain (“gTLD”). Based on Employ Media’s egregious conduct as the registry operator of the .JOBS TLD, the Coalition expects that the Internet Corporation for Assigned Names and Numbers (“ICANN”) will definitively demonstrate its commitment to contractual compliance by disqualifying Employ Media from participation in the new gTLD program.

ICANN frequently proclaims its dedication to contractual compliance and asserts that the new gTLD program contains multiple stakeholder protection mechanisms. In his [response](#) to a recent [editorial](#) published in *The Washington Post* calling for the delay of the new gTLD launch, ICANN President and CEO Rod Beckstrom claimed that there were “significant protections built into the program,” which include the rejection of applicants with “*a history of abuse.*” Based on ICANN’s mismanagement of the current .JOBS TLD dispute, however, the Internet community is rightly concerned that ICANN’s public statements will once again prove to be empty words.

The dispute involving the .JOBS TLD is a case study of ICANN’s enforcement ineffectiveness. During the course of 2010, ICANN refused to listen when Coalition members and numerous constituents of the Internet community submitted detailed public comments that alerted ICANN as to how Employ Media planned on violating the .JOBS registry agreement and charter. It was only after yet another extensive effort by the Coalition to pull together evidence of non-compliance in early 2011 that ICANN finally issued a [breach notice](#), which stated that Employ Media had “*exclusively served [its] financial interests*” to “*the detriment of some participants of the human resources community.*” Employ Media’s actions contradicted the purpose of the .JOBS TLD, which was designed for internal human resource management personnel to utilize .JOBS domains for their own companies and organizations. Mr. Beckstrom also weighed in on the matter at a press conference on March 14, 2011, claiming that the breach notice “*reflects [ICANN’s] serious commitment to contractual compliance with registries and registrars.*”

Indicative of its disregard for ICANN’s authority, Employ Media sued ICANN in arbitration rather than alter its non-compliant conduct. In its arbitration [answer](#) dated July 22, 2011, ICANN charged that Employ Media had “*transcended the very purpose behind the creation of the TLD*” and engaged in a “*backroom deal*” rather than in an open and transparent manner. Unfortunately, despite repeated appeals from the Coalition,

there is no indication that ICANN has done anything since July 2011 to prosecute this matter as ICANN has failed to keep the public apprised of the dispute's status. As a result, the conduct of Employ Media which culminated in the breach notice has gone undeterred for over a year, and it continues to aggressively expand its non-compliant operations to this day.

The deficiencies in ICANN's enforcement mechanisms have only emboldened Employ Media's defiance. Despite ICANN's strong public reprimand of its actions as the .JOBS registry operator, Employ Media nonetheless plans to apply for one or more new gTLDs. In his [prepared testimony](#) at a December 14, 2011 [hearing](#) before the United States House Subcommittee on Communications and Technology, Employ Media's Chairman Thomas Embrescia voiced his support for the new gTLD program and indicated that he would be an "interested party" in the expansion round when ICANN eventually launches the gTLD program. Incredibly, Mr. Embrescia also testified that ***"Could there be bad operators? Could there be people that have some problems? I'm confident that ICANN's multi-stakeholder model can serve that purpose. And so I'm here today to support that expansion, as an existing operator..."*** Given his leadership of a rogue registry operator which ICANN has failed to regulate despite its egregious breach of the .JOBS registry agreement, the Coalition finds it extremely ironic that Mr. Embrescia testified regarding his confidence in ICANN's ability to hold "bad operators" accountable.

Moreover, ICANN Senior Vice President Kurt Pritz – who is charged with overseeing the new gTLD program ***and*** was also the ICANN representative responsible for coordinating with Employ Media on .JOBS implementation issues – declined an opportunity to establish ICANN's commitment to contractual compliance during the House subcommittee hearing. When questioned by a House member about ICANN's inability to enforce compliance policies in the .JOBS dispute, and to explain how these same mistakes and delays would not occur in the gTLD expansion, Mr. Pritz, who was seated two chairs down from Mr. Embrescia at the panel table, simply avoided answering the question. Given Mr. Pritz's silence after Mr. Embrescia's shameless testimony and the history of neglect in the .JOBS dispute, the only reasonable interpretation is that ICANN will fail to uphold its promise to reject new gTLD applicants with a history of non-compliance and other disqualifying conduct.

ICANN's unwillingness to enforce a clear case of non-compliance in a setting where only 22 TLDs presently exist is a harbinger for disaster when the universe of gTLDs eventually expands to hundreds and possibly thousands of new domains. Despite this inaction and all other indications to the contrary, however, the Coalition believes that ICANN can still re-gain a measure of regulatory authority by publicly excluding Employ Media, as well as DirectEmployers Association, its alliance partner in this egregious breach, from participating in the new gTLD program. This action will signal to the Internet community that ICANN, at last, will give meaning to its words and effectively sanction non-compliance by denying the new gTLD application of a "bad operator" with a "history of abuse."

Sincerely,



John Bell
Chairman, .JOBS Charter Compliance Coalition

cc: Mr. Rod Beckstrom
John Jeffrey, Esq.