

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PAID
APR 11 2003

KENNETH S. GARDNER, CLERK
UNITED STATES BANKRUPTCY COURT
BY 7/20/03

In Re:

marchFIRST, INC., et al.,

EOD

APR 11 2003

Debtors.

) Chapter 7
)
) Case No. 01 B 24742
)
) Jointly Administered
)
) Honorable John D. Schwartz
)

ANDREW J. MAXWELL, Chapter 7 Trustee for
the bankruptcy estate of Debtors,

Plaintiff,

v.

ROBERT F. BERNARD, ROBERT
CLARKSON, EDWARD F. SZOFER and BERT
B. YOUNG,

Defendants.

03A01412

Adversary No. _____

Honorable John D. Schwartz

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

APR 11 2003

KENNETH S. GARDNER, CLERK
PS REP. - AR

**COMPLAINT TO AVOID FRAUDULENT TRANSFERS
AND FOR DECLARATORY JUDGMENT**

Andrew J. Maxwell, in his capacity as the chapter 7 trustee (the "Trustee") for the Estate of marchFIRST, Inc., and its affiliated debtors ("marchFIRST"), by and through his undersigned counsel, pursuant to Sections 548 and 550 of Title 11 of the United States Code (the "Bankruptcy Code"), and Rules 6009, 7001 and 7003 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), alleges the following as his complaint against Robert F. Bernard ("Bernard"), Robert Clarkson ("Clarkson"), Edward F. Szofer ("Szofer") and Bert B. Young ("Young") (collectively, the "Insider Directors").

INTRODUCTION

1. While the Insider Directors were managing marchFIRST, they engaged in a variety of conduct designed to create the impression that marchFIRST was enjoying success in the marketplace when, in reality, the company was in profound financial trouble. From the beginning, the Insider Directors engaged in inappropriate investments, improper revenue recognition, over-hiring, excessive real estate spending, and other improper waste of corporate assets, all of which combined to put marchFIRST in serious financial trouble in the company's infancy and to deepen marchFIRST's insolvency. The Insider Defendants continued to engaged in breaches of their fiduciary duty while marchFIRST was in the vicinity of insolvency, and even after it passed the point of insolvency. The Trustee brought an adversary action against the Insider Directors for their breaches of fiduciary duties based on these abuses, which is pending in this Court as Adversary No. 02 A 00194.

2. After the Insider Directors had caused marchFIRST's financial decline through their breaches of their fiduciary duties, they colluded to attempt to deprive marchFIRST of legal recourse against them. Upon leaving their employment with marchFIRST, Defendants Clarkson and Young entered into Separation Agreements with marchFIRST, in which marchFIRST purported to release both Clarkson and Young from causes of action arising out of their employment with marchFIRST. Defendant Szofer, one of their cohorts in the fiduciary breaches that doomed marchFIRST, signed the Separation Agreements on behalf of marchFIRST.

3. The Insider Directors have raised the releases contained in the Separation Agreements as a defense to the adversary action against them for breaches of their fiduciary

duties. They have represented that Young and Clarkson Agreements are the only agreements in which marchFIRST has purported to release any of the Insider Defendants. Significantly, Bernard and Szofer claim that the releases in the Young and Clarkson Agreements also serve to release the Trustee's claims against them for their breaches of their fiduciary duties, even though they are not signatories to nor named in these agreements. This adversary complaint is to avoid those releases as to all of the Insider Defendants under federal and Illinois law.

PARTIES

4. On July 16, 2001, the United States Trustee appointed Mr. Maxwell, a citizen of the State of Illinois, as the chapter 7 trustee for the marchFIRST bankruptcy estates.

5. Mr. Maxwell remains the duly appointed, qualified and acting trustee in the above-captioned chapter 7 liquidation proceedings involving marchFIRST and he brings this complaint solely in his capacity as Trustee and not individually.

6. On information and belief, Robert F. Bernard is a resident of the State of Illinois. Bernard held various positions with marchFIRST and its predecessor, Whittman-Hart, Inc., including being President, Chief Executive Officer, and a member of the Board of Directors from March 1, 2000 until his resignation on March 12, 2001.

7. On information and belief, Robert Clarkson is a resident of the State of California. Clarkson was the Chief Operating Officer of marchFIRST from March 1, 2000 until his resignation on October 14, 2000.

8. On information and belief, Edward F. Szofer is a resident of the State of Illinois. Szofer held various positions at marchFIRST, including being Chief Development Officer from March 1, 2000 until April 2, 2001 and a member of the Board of Directors from

March 1, 2000 until May 14, 2001.

9. On information and belief, Bert B. Young is a resident of the State of Utah. Young held various positions at marchFIRST, including Chief Financial Officer and Treasurer from March 1, 2000 until October 31, 2000.

JURISDICTION AND VENUE

10. This is a civil proceeding arising under the Bankruptcy Code or arising in or related to a case under the Bankruptcy Code. This Court has jurisdiction over this complaint pursuant to 28 U.S.C. § 1334(b) and (d) and § 157(a) and (b), and Internal Operating Procedure 15(a) of the Federal District Court for the Northern District of Illinois.

11. Venue in this district is proper pursuant to 28 U.S.C. § 1409 (a), (c) and (d). This action is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (E), (F) and (H).

FACTS

12. The facts underlying the history of the Insider Directors' employment with marchFIRST are set forth more fully in the Trustee's Amended Complaint against them in the Adversary Action against the Insider Directors, alleging breaches of their fiduciary duties (Adversary Number 02 A 00194), and those allegations are hereby incorporated by reference. For the purposes of this complaint, the Trustee will highlight only the relevant facts.

13. Young entered into a Separation Agreement with marchFIRST dated September 29, 2000 ("Young Agreement"), a copy of which is attached hereto as Exhibit A. Szofer signed the Young Agreement on behalf of marchFIRST as its Chief Development Officer.

14. The Young Agreement provided that Young's position and employment as Chief Financial Officer would terminate voluntarily as of October 31, 2000 (the "Separation Date").

15. The Young Agreement accelerated the vesting of Young's stock options, and allowed the options to remain exercisable for six months following the Separation Date.

16. The Young Agreement also purported to provide mutual releases:

Young, on behalf of himself, his heirs, executors, attorneys, administrators, successors and assigns, hereby fully and forever, to the full extent permitted by law, releases and discharges [marchFIRST] and each of [marchFIRST's] affiliated entities and their directors, officers, employees, accountants, agents and attorneys, past, present and future, and all predecessors, successors and assigns thereof (collectively "Released Parties") from any and all claims, demands, agreements, actions, suits, causes of action, damages, injunctions, restraints and liabilities, of whatever kind or nature, in law, equity or otherwise, whether now known or unknown, or which have ever existed or may now exist...

[marchFIRST], for itself and its subsidiaries, officers, directors, agents, successors and assigns, hereby forever and fully remises, releases, acquits and discharges Young and his heirs, executors, administrators, personal representatives, agents, affiliates, successors and assigns, of and from any and all actions, causes of action, suits, debts, sums of money, accounts, covenants, contracts, agreements, arrangements, promises, obligations, warranties, trespasses, torts, injuries, losses, damages, claims, demands, or other liability or relief of any nature whatsoever, whether known or unknown, foreseen or unforeseen, resulting or to result, whether in law or in equity, or before administrative agencies or departments that [marchFIRST] ever had, now has or hereafter can, shall or may have, by reason of or arising out of Young's employment with [marchFIRST] ...

17. The mutual releases were to become effective as of October 31, 2000, Young's Separation Date.

18. Clarkson entered into a Separation Agreement with marchFIRST dated October 13, 2000 ("Clarkson Agreement"), a copy of which is attached hereto as Exhibit B. Szofer signed the Clarkson Agreement on behalf of marchFIRST as its Chief Development Officer.

19. The Clarkson Agreement provided that Clarkson's last day of employment with marchFIRST was October 14, 2000 (the "Separation Date").

20. In consideration of the Clarkson Agreement, marchFIRST agreed to provide

Clarkson with severance benefits, including payments at Clarkson's final regular rate of pay (\$19,230.76 biweekly) at regular payroll intervals for six months after the Separation Date. The Clarkson Agreement also provided for the acceleration of the vesting of any stock options, to be exercised within nine months of the Separation Date.

21. The Clarkson Agreement, like the Young Agreement, also purported to provide mutual releases:

In consideration for the consideration from [marchFIRST] ... [Clarkson], on behalf of [Clarkson] and [Clarkson's] agents, representatives, attorneys, assigns, heirs, executors and administrators, fully releases [marchFIRST] from any and all liability, claims, demands, actions, causes of action, suits, grievances, debts, sums of money, agreements, promises, damages, back and front pay, costs, expenses, attorneys' fees, and remedies of any type, directly or indirectly regarding any act or Agreement, including, without limitation, all claims arising or that arose, or may have arisen out of or in connection with [Clarkson's] employment ...

[marchFIRST], for itself and its subsidiaries, officers, directors, agents, successors, assigns and the Released Parties, hereby forever and fully releases [Clarkson] and his heirs, executors, administrators, personal representatives, agents, affiliates, successors and assigns, of and from any and all actions, causes of action, suits, debts, sums of money, accounts, covenants, contracts, agreements, arrangements, promises, obligations, warranties, trespasses, torts, injuries, losses, damages, claims, demands or other liability or relief of any nature whatsoever, whether known or unknown, foreseen or unforeseen, resulting or to result, whether in law or in equity, or before administrative agencies or departments that [marchFIRST] ever had, now has, or hereafter can, shall or may have by reason or arising out of [Clarkson's] employment with [marchFIRST] ...

22. Both the Young and the Clarkson Agreements provided that Illinois law would govern.

23. At all relevant times, the Insiders Directors were "insiders" of marchFIRST. Insiders of a debtor include its directors and officers. *See* 11 U.S.C. § 101(31)(B)(i) and (ii).

24. By at least the time the Young and Clarkson Agreements were executed,

marchFIRST was insolvent, as defined by 11 U.S.C. § 101(32)(A): “financial condition such that the sum of such entity’s debts is greater than all of such entity’s property, at fair valuation...”

COUNT I
(Against Young and Clarkson to Avoid Agreements
Pursuant to 11 U.S.C. §§ 548 and 550)

25. Plaintiff realleges and incorporates by reference paragraphs 1 through 24 above as paragraph 25 of this Complaint.

26. On information and belief, the Agreements with Young and Clarkson were made:

- (a) with actual intent to hinder, delay or defraud its creditors; or
- (b) without receiving a reasonably equivalent value in exchange for the Agreements at a time when:
 - (1) marchFIRST was insolvent, or became insolvent as a result of the Agreements; or
 - (2) marchFIRST was engaged or was about to engage in a business or a transaction for which its remaining assets were an unreasonably small capital in relation to such business or transaction; or
 - (3) marchFIRST intended to incur or believed that it would incur debts beyond its ability to pay as they came due.

27. The purported release in the Young and Clarkson Agreements, if enforced, would constitute a release of claims against Clarkson and Young worth at least tens of millions of dollars, in exchange for which marchFIRST received from Clarkson and Young only a release of Clarkson and Young’s claim against marchFIRST, which claims have no value.

28. The Agreements constitute fraudulent transfers within the meaning of § 548(a) of Title 11 U.S.C. and should be avoided.

29. Pursuant to §550(a) of the Bankruptcy Code, Trustee is entitled to recover the present value of the amount of the transfers from the Defendant.

WHEREFORE, the Trustee requests the following relief:

- (a) The entry of an order avoiding the Young and Clarkson Agreements;
- (b) The entry of an order allowing the Trustee to recover from Young and Clarkson, for the benefit the Estate, the value of property or rights transferred under the Young and Clarkson Agreements, to the extent such transfers exceed the value of property or rights received by marchFIRST; and
- (c) The entry of an order awarding the Trustee his costs and such other and further relief as the court deems just and proper.

COUNT II
(Declaratory Judgment Against Clarkson and Young)

30. Plaintiff realleges and incorporates by reference paragraphs 1 through 24 above as paragraph 30 of this Complaint.

31. Even if the Young and Clarkson Agreements are not avoidable as fraudulent transfers, they are still void and unenforceable.

32. The Young and Clarkson Agreements are unenforceable and voidable because Clarkson, Young and Szofer breached their fiduciary duties of loyalty, which as officers and directors they owed to marchFIRST, by entering into the Young and Clarkson Agreements.

33. The highly unfavorable terms of the Separation Agreements injured marchFIRST. marchFIRST gained only a release of claims, none of which actually existed, by Young and Clarkson, while in return provided them with vesting of stock options, and release

of liability for their numerous and egregious breaches of fiduciary duties. Such a transaction was not fair to marchFIRST, and could only have resulted from Insider Directors' bad faith.

34. The Separation Agreements served only the personal needs of the Insider Directors, not those of marchFIRST.

35. The minutes of the Board of Directors' Meeting around the time the Separation Agreements were executed do not reflect that the Separation Agreements were approved or discussed by the Board of Directors.

36. The Separation Agreements are also voidable because their formation is the result of collusion between the Insider Directors, and was intended to deprive marchFIRST of its rights to legal action against Young and Clarkson for their breaches of fiduciary duty. The circumstances surrounding the Separation Agreements are contaminated by Insider Directors' collusion and deceit.

37. The Separation Agreements are further voidable because the circumstances surrounding their formation caused the Separation Agreements to be so one-sided and unfavorable to marchFIRST that the Separation Agreements are unconscionable.

38. Clarkson and Young contend that the purported releases in the Young and Clarkson Agreements bar the Trustee's recovery against them.

39. An actual controversy exists between Trustee, on the one hand, and Clarkson and Young, on the other hand.

WHEREFORE, the Trustee requests the following relief:

- (a) The entry of an order declaring the Young and Clarkson Agreements void and unenforceable; and

- (b) The entry of an order awarding the Trustee his costs and such other and further relief as the Court deems just and proper.

COUNT III
(Against Bernard and Szofer to Avoid Agreements
Pursuant to 11 U.S.C. §§ 548 and 550)

40. Plaintiff realleges and incorporates by reference paragraphs 1 through 24 above as paragraph 40 of this Complaint.

41. Bernard and Szofer rely on the purported releases contained in the Young and Clarkson Agreements as a basis to argue that the Trustee's claims against them have been released. On information and belief, the Agreements with Young and Clarkson were made:

- (a) with actual intent to hinder, delay or defraud its creditors; or
- (b) without receiving a reasonably equivalent value in exchange for the Agreements at a time when:
 - (1) marchFIRST was insolvent, or became insolvent as a result of the Agreements; or
 - (2) marchFIRST was engaged or was about to engage in a business or a transaction for which its remaining assets were an unreasonably small capital in relation to such business or transaction; or
 - (3) marchFIRST intended to incur or believed that it would incur debts beyond its ability to pay as they came due.

42. The purported release in the Young and Clarkson Agreements, if applicable to Bernard and Szofer, would constitute a release of claims against Bernard and Szofer worth at least tens of millions of dollars, in exchange for which marchFIRST received nothing from Bernard and Szofer.

43. The Agreements constitute fraudulent transfers within the meaning of § 548(a) of Title 11 U.S.C. and should be avoided.

44. Pursuant to §550(a) of the Bankruptcy Code, Trustee is entitled to recover the present value of the amount of the transfers from the Defendant.

WHEREFORE, the Trustee requests the following relief:

- (a) The entry of an order avoiding the Young and Clarkson Agreements as to Bernard and Szofer;
- (b) The entry of an order allowing the Trustee to recover from Bernard and Szofer, for the benefit the Estate, the value of property or rights transferred to Bernard and Szofer under the Young and Clarkson Agreements, to the extent such transfers exceed the value of property or rights received by marchFIRST from Bernard and Szofer under the Young and Clarkson Agreements; and
- (c) The entry of an order awarding the Trustee his costs and such other and further relief as the court deems just and proper.

COUNT IV
(Declaratory Judgment against Bernard and Szofer)

45. Plaintiff realleges and incorporates by reference paragraphs 1 through 24 above as paragraph 45 of this Complaint.

46. Even if the Young and Clarkson Agreements are not avoidable against Bernard and Szofer as fraudulent transfers, they are still void and unenforceable as to Bernard and Szofer.

47. The language of the purported releases in the Young and Clarkson Agreements

does not identify Bernard and Szofer as intended released parties. Accordingly, the releases contained in the Young and Clarkson Agreements do not release Bernard or Szofer.

48. Claims of breach of fiduciary duty are not torts under Illinois law. Accordingly, the purported releases in the Young and Clarkson Agreements cannot operate to release Bernard or Szofer as joint tortfeasors.

49. Bernard and Szofer contend that the purported releases in the Young and Clarkson Agreements bar the Trustee's recovery against them.

50. An actual controversy exists between Trustee, on the one hand, and Bernard and Szofer, on the other hand.

WHEREFORE, the Trustee requests the following relief:

- (a) The entry of an order declaring that the Young and Clarkson Agreements do not operate to release Bernard and Szofer; and
- (b) The entry of an order awarding the Trustee his costs and such other and further relief as the Court deems just and proper.

Dated: April 11, 2003

Respectfully submitted,

ANDREW J. MAXWELL, Chapter 7
Trustee for the Bankruptcy Estate of
marchFIRST, Inc. and its Subsidiaries

By: 

One of his attorneys

Ray G. Rezner
Wendi E. Sloane
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Exhibit A

SEPARATION AGREEMENT AND RELEASE

marchFIRST, Inc., a Delaware corporation ("Employer"), and Bert B. Young, on behalf of himself, his heirs and assigns ("Young"), hereby enter into this Separation Agreement and Release ("Agreement").

WHEREAS, Young's position and employment as Chief Financial Officer ("CFO") and all other officer and director positions of any of Employer's subsidiaries and affiliates will terminate voluntarily by Young effective October 31, 2000 (the "Separation Date");

1. In consideration for and subject to the undertakings described in this Agreement, Employer and Young agree as follows:

a. Young's coverage under all of Young's benefit programs and plans will end as of the Separation Date; provided, however, that Young shall not lose his rights, if any, to any vested benefits Young may have under any employee benefit program or plan of Young. Pursuant to COBRA, as of October 31, 2000, Young will become eligible to elect continued coverage of Young's group health benefits. Employer will provide Young with appropriate forms and information so that Young may elect such continued coverage.

b. Employer further agrees to accelerate in their entirety the vesting of the stock options (the "Accelerated Options") set forth below in this paragraph:

Grant #	# of Shares Vested as of 10/31/00	# of Shares Accelerated	Total Shares	Strike Price
95-2058	32,937	5,525	38,462	\$13.00
95-4838	11,241	1,759	13,000	\$14.875
95-5461	35,511	4,489	40,000	\$20.00
95-5757	15,691	4,309	20,000	\$19.00
95-8955	2,906	510	3,416	\$26.3438
95-8956	13,700	5050	18,750	\$26.3438
95-9416	14,254	5,746	20,000	\$23.6875
95-9839	12,260	6,870	19,130	\$34.50
99-17686	0	200	200	\$47.50

c. Such Accelerated Options shall become fully vested on the Separation Date. Such options shall be and remain exercisable for a period of six (6) months following the Separation Date. The last date to exercise such options shall be April 30, 2001. If unexercised, such options shall expire. Such options must be exercised and traded through Donaldson, Lufkin & Jenrette.

d. This Agreement nullifies, supercedes and replaces all other grants of unvested stock options provided previously by Employer to Young. Other than the options specified in this Agreement, no other stock options given to Young by Employer

will vest. This Agreement nullifies, supercedes and replaces all other grants of unvested stock options provided previously by Employer, whether known or unknown.

2. Young agrees that (except in connection with tax reporting, or pursuant to legal process or any legal action to enforce the terms of this Agreement), he shall keep confidential the terms of this Agreement. Young may disclose the terms of this Agreement to immediate family members, attorney(s), accountant(s), and state and federal taxing authorities under condition of confidentiality, provided that he shall be responsible for any breach of such confidentiality by them. In addition, Young shall not (i) take any action intended to portray Employer, its affiliated entities, or their directors, officers, employees, accountants, agents or attorneys (past or present) in a negative light or (ii) except as may be required by law or legal process disclose to any one (without the prior written consent of Employer) any information regarding Employer or its financial condition, clients, contractual arrangements, internal affairs, or governance which is non-public, confidential, or proprietary. Truthful testimony pursuant to legal process shall not be considered a violation of clause (i). In the event that Young will be required pursuant to law or legal process to disclose any information described in clause (ii), Young shall provide Employer with notice within 48 hours of receipt of the order or process compelling such disclosure and shall cooperate with Employer in any efforts it undertakes to seek a protective order or other limitations on such disclosure.

3. Young, on behalf of himself, his heirs, executors, attorneys, administrators, successors and assigns, hereby fully and forever, to the full extent permitted by law, releases and discharges Employer and each of Employer's affiliated entities and each of their directors, officers, employees, accountants, agents and attorneys, past, present and future, and all predecessors, successors and assigns thereof (collectively "Released Parties") from any and all claims, demands, agreements, actions, suits, causes of action, damages, injunctions, restraints and liabilities, of whatever kind or nature, in law, equity or otherwise, whether now known or unknown or which have ever existed or which may now exist (except to enforce the terms of this Agreement and vested retirement benefits), including, but not limited to, any and all claims, liabilities, demands or causes of action relating to or arising out of Young's employment or separation from Employer including, without limitation, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., 42 U.S.C. § 1981, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act as amended by the Older Workers Benefit Protection Act, the Family and Medical Leave Act, the Illinois Human Rights Act, the anti-trust and restraint of trade statutes and common law, federal and state (including, without limitation, Illinois) statutes or common law, or claims for breach of contract, for misrepresentation, for violation of any other federal, state or local statute, ordinance or regulation or common law dealing in any respect with discrimination in employment or otherwise, defamation, retaliatory or wrongful discharge under the common law of any state, infliction of emotional distress or any other tort under the common law of any state or for attorney's fees. Young acknowledges and agrees that this release and the covenant not to sue set forth in Section 6 are essential and material terms of this Agreement and that without such release and covenant not to sue no agreement would have been reached by the parties. Young understands and acknowledges the significance and consequences of this release and this Agreement.

Young agrees at Employer's request to participate in the public/analysts earnings call to be held by Employer with respect to third quarter earnings.

Young acknowledges that he may learn of circumstances bearing upon the things and items released by this Section 0, but it is his intention by doing so and doing the acts called for by this Agreement, that this Agreement shall be effective as a full and final accord and satisfaction and release of each and every thing and item released herein, whether known or unknown.

Notwithstanding the foregoing, nothing herein shall be deemed to release the Employer from any indemnification obligations it may have under Delaware law or the Employer's certificate of incorporation or bylaws with respect to Young's role as an officer or director of the Employer, nor any rights he may have with respect to any Employer stock of which he is the record owner (or may become the record owner on account of exercise of options currently held by him which are vested).

The following provisions are incorporated as part of this release:

a. Young does not waive or release any rights or claims which may arise after the Separation Date. As a result, any claim he might have based on separation from employment has arisen prior to the date of this Agreement.

b. Young acknowledges that he has received separate consideration for this release, beyond that which Employee is entitled to under Employer policy or applicable law, including the employment and benefits referred to in Section 1.

c. Employer expressly advises Young to consult with an attorney of his choosing before signing this Agreement.

d. Young has 21 days to consider whether or not to sign this Agreement. If Young signs this Agreement, he has seven days in which to revoke this Agreement, in writing, by personal delivery, or by first class mail. This Agreement is not effective until the end of the revocation period.

4. Employer agrees not to take any action intended to portray Young in a negative light.

5. Employer, for itself and its subsidiaries, officers, directors, agents, successors and assigns, hereby forever and fully remises, releases, acquits and discharges Young and his heirs, executors, administrators, personal representatives, agents, affiliates, successors and assigns, of and from any and all actions, causes of action, suits, debts, sums of money, accounts, covenants, contracts, agreements, arrangements, promises, obligations, warranties, trespasses, torts, injuries, losses, damages, claims, demands or other liability or relief of any nature whatsoever, whether known or unknown, foreseen or unforeseen, resulting or to result, whether in law or in equity, or before administrative agencies or departments that Employer ever had, now has or hereafter can, shall or may have, by reason of or arising out of Young's employment with Employer, and for libel, slander, breach of contract, breach of the implied covenant of good faith and fair dealing, assault, battery, intentional infliction of emotional distress, tort or any other theory under the common

law of any state. It is expressly agreed and understood by Employer that this is a general release with respect to Young's employment, however, this release shall not preclude claims against Young for those obligations or duties of Young which arise out of this Agreement or which otherwise arise among the parties after the Separation Date.

6. To the maximum extent permitted by law, Young covenants not to sue or to institute or cause to be instituted any kind of claim or action (except to enforce this Agreement) in any federal, state or local agency or court against any of the Released Parties relating to the matters covered by the foregoing release. Should Young, or any administrative agency acting on his behalf, file any claim or action, Young waives all right to recovery.

Should Young breach the terms of this covenant not to sue, he will be entitled to no further employment, wages, or benefits under this Agreement and agrees to repay Employer all amounts paid to him or on his behalf under this Agreement.

Young warrants and represents that he has neither made, will make, nor suffered to be made any assignment or transfer of any right, claim, demand or cause of action covered by the above release or covenant not to sue, that Young is the sole and absolute owner of all thereof, and that Young has not filed or suffered to be filed on his behalf any claim, action, demand of any kind covered by the above release or covenant not to sue as of the date and time of the execution of this Agreement.

7. Young acknowledges that neither this Agreement nor performance hereunder constitutes any admission of any violation of any federal, state or local law, regulation, common law, of any breach of any contract or any other wrongdoing of any type.

8. In the event that any section or provision of this Agreement (except for Sections 3 and 6 which are agreed to be essential provisions of this Agreement) shall be determined to be contrary to governing law or otherwise unenforceable, all remaining portions of this Agreement shall be enforced to the maximum extent permitted by law; the unenforceable paragraph, subparagraph or provision shall first be construed or interpreted, if possible, to render it enforceable and, if that is not possible, then the provision shall be severed and disregarded, and the remainder of this Agreement shall be enforced to the maximum extent permitted by law.

Young shall continue to honor and be bound by all obligations of confidentiality and assignment of inventions and nonsolicitation to which he is currently bound under Illinois law or under any confidentiality, nondisclosure or invention assignment agreement previously executed by him in favor of Employer. In addition to the foregoing, Young agrees that until the expiration of twenty-four months after the end of the Continued Employment Period, he shall not solicit for employment or hire any employee or independent contractor of Employer or any of its subsidiaries until after the expiration of six months following termination of the employment or contractor relationship of such individual with Employer or its subsidiaries.


9. Young agrees that any violation by him of any covenant in this Agreement may cause such damage to Employer as will be serious and irreparable and the exact amount of which will be difficult to ascertain, and for that reason, he agrees that Employer shall be entitled to seek, as a matter of right, a temporary, preliminary and/or permanent injunction and/or other

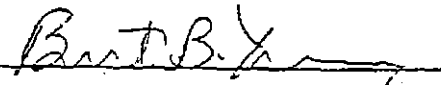

injunctive relief, ex parte or otherwise, from any court of competent jurisdiction, restraining any further violations by him. Such injunctive relief shall be in addition to and in no way in limitation of, any and all other remedies Employer may have in law or equity for the enforcement of such covenants and provisions. Without limitation of the foregoing, Young agrees that in event of such a violation all options held by Young shall be cancelled and void.

10. This Agreement shall be governed by and construed in accordance with the internal substantive laws, but not the choice of law rules, of the state of Illinois.

11. Young acknowledges that he received this Agreement on September 29, 2000. Young represents that he has read and fully understands the provisions of this Agreement, and he is willfully and voluntarily entering into this Agreement.

marchFIRST, Inc.

By: 
Its: Chief Development Officer


Bert B. Young 

SEPARATION AGREEMENT AND GENERAL RELEASE

Robert T. Clarkson ("Employee") and marchFIRST, Inc., a Delaware corporation ("Employer"), because they wish to settle and resolve all issues arising out of Employee's employment with and separation from Employer without any disputes or proceedings on the terms described below, have entered into this Separation Agreement and General Release ("Agreement").

1. Separation Date. Employee's last day of employment with Employer is October 14, 2000 ("Separation Date").

2. Benefits. Except for Employee's group health coverage (which will continue through October 31, 2000) and any continued coverage Employee may elect under the Consolidated Omnibus Budget Reconciliation Act (COBRA), Employee's coverage under all of Employer's benefit programs and plans will end as of the Separation Date; provided, however, that Employee shall not lose his/her rights, if any, to any vested benefits Employee may have under any employee benefit program or plan of Employer. Pursuant to COBRA, as of October 31, 2000, Employee will become eligible to elect continued coverage of Employee's group health benefits. Employer will provide Employee with appropriate forms and information so that Employee may elect such continued coverage.

3. Consideration. In consideration for Employee's releases, promises, and representations in this Agreement, Employer agrees to provide Employee with the following (collectively "Severance Benefits") which Employee acknowledges is more than Employee would receive if Employee chose not to sign this Agreement:

- a. payments at Employee's final regular rate of pay (\$19,230.76 bi-weekly), paid at Employer's regular payroll intervals and subject to normal tax withholding, for a period of six (6) months following the Separation Date; provided, however, that Employee will not earn or accrue any bonus, vacation pay, sick pay, pension or retirement credit, or any other benefits during this period in which Employee is receiving such payments;
- b. payment of Employee's premiums for continued coverage under Employer's group health care plan for six (6) months following the Separation Date, if Employee elects, and to the extent Employer is and remains eligible for, such continued coverage under COBRA;
- c. with respect to any options granted by USWeb Corporation, the vesting of such options shall be accelerated by crediting an additional 6 months of vesting to such options on the Separation Date ("Accelerated Options") as set forth below:

Grant #	# of Shares Vested as of 10/14/00	# of Shares Accelerated	Total Shares	Strike Price
UW5318	0	28,833	28,833	\$44.00
UW5231	3,876	1,784	5,660	\$23.55
UW5232	15,048	3,623	18,671	\$23.55
UW94001	0	10,813	10,813	\$33.05
UWX0002594	75,688	21,624	97,312	\$34.75

- d. such Accelerated Options shall become fully vested on the Separation Date of this Agreement. Such options shall be and remain exercisable for a period of 9 months following the Separation Date. The last date to exercise such options shall be July 13, 2001. If unexercised, such options shall expire. Such options must be exercised and traded through Donaldson, Lufkin & Jenrette ("DLJ"), so long as DLJ provides the mechanism for a same day exercise and sale with a cashless exercise; and
- e. any outstanding options granted by CKS Group, Inc. as set forth below may be exercised, to the extent they are exercisable on the Separation Date, for a period of 2 years from the Separation Date. The last day to exercise such options will be October 13, 2002:

# of Shares	Strike Price
168,675	\$10.4528
9,566	\$10.4528

4. Personal Assets Retained by Employee. Employer agrees that (a) certain work personal items and an executive chair currently residing in Employee's office in Employer's 410 Townsend, San Francisco, California facility are the property of Employee and will be retained by Employee and (b) Employee will retain possession of an IBM Thinkpad 600 assigned to him, as well as an HP calculator and a Palm VII PDA.

5. Effect of Employee's Subsequent Employment. Any amounts earned by employee by a subsequent employer during the 6 months following the Separation Date shall be offset against the Severance Benefits payable to Employee in accordance with Section 3 of this Agreement. Compensation for serving on a board of directors shall not constitute amounts earned, provided such compensation is consistent with other board members' compensation.

6. Released Parties. As used in this Agreement, "Released Parties" shall mean and include (a) Employer, (b) all of Employer's parents, subsidiaries, and affiliates, and (c) all past and present officers, directors, agents, employees, officials, employee benefit plans (and their sponsors, fiduciaries and administrators), insurers, and attorneys.

7. Employee Release. In consideration for the consideration from Employer described in paragraph 3 above, Employee, on behalf of Employee and Employee's agents,

representatives, attorneys, assigns, heirs, executors, and administrators, fully releases each of the Released Parties from any and all liability, claims, demands, actions, causes of action, suits, grievances, debts, sums of money, agreements, promises, damages, back and front pay, costs, expenses, attorneys' fees, and remedies of any type, directly or indirectly regarding any act or failure to act that occurred up to and including the date on which Employee signs this Agreement, including, without limitation, all claims arising or that arose or may have arisen out of or in connection with Employee's employment or separation of employment with Employer, and all claims for any act or failure to act that occurred up to the time that Employee signs this Agreement, including but not limited to claims under: (1) Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Civil Rights Act of 1866 (42 U.S.C. §1191), the Americans With Disabilities Act, the Fair Labor Standards Act, the National Labor Relations Act, the Employee Retirement Income Security Act, the Family and Medical Leave Act, the California Fair Employment & Housing Act, the California Family Rights Act, the Illinois Human Rights Act, The Age Discrimination In Employment Act and The Older Worker Benefit Protection Act, (2) any claims or allegations brought under the Fair Labor Standards Act, the Illinois Wage Payment and Collection Act, the Illinois Unemployment Insurance Act, the California Labor Code, the California Unemployment Insurance Act, and any other federal, state or local constitution, law, statute, ordinance, or regulation regarding employment, wages, commissions, bonuses, compensation, employee benefits, termination of employment, or discrimination in employment; or (3) libel, slander, breach of contract, breach of the implied covenant of good faith and fair dealing, retaliatory discharge, assault, battery, intentional infliction of emotional distress, tort or any other theory under the common law of any state.

Employee's release of Employer set forth above shall not relieve Employer, CKF Group, Inc., USWeb Corporation or the Mitchell Madison Group (the "Companies") from any obligation to indemnify or defend Employee against liability to third parties arising out of any actions or failure to act, alleged or actual, while an officer of Employer or the Companies, whether such obligation arises from any provision of the charter or bylaws of any of the Companies, any applicable statute or common law, or any agreement or part of any agreement between Employee and Employer or any of the Companies.

8. Employee Waiver. Employee also expressly waives all other individual and/or collective rights, if any, whether or not set forth in this Agreement, notwithstanding section 1542 of the California Civil Code, which section Employee has read and which section Employee fully understands. Section 1542 provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in creditor's favor at the time of executing the release, which if known by creditor must have materially affected creditor's settlement with the debtor.

This waiver is not a mere recital, but is a known waiver of rights and benefits. This is a bargained-for provision of this Agreement and is further consideration for the covenants and conditions contained herein.

9. Employee Acknowledgement. It is expressly understood and agreed by Employee that this Agreement is in full accord, satisfaction and discharge of disputed claims and that this Agreement has been executed with the express intention of effectuating the legal consequences provided for in section 1541 of the California Civil Code, i.e., the extinguishing of all obligations, known or unknown. Employee has read section 1541 and it is fully understood by him. Section 1541 provides as follows:

An obligation is extinguished by a release therefrom given to the debtor by the creditor, upon a new consideration, or in writing, with or without new consideration.


This agreement is not a mere recital, but is a bargained-for provision of this Agreement and is further consideration for the covenants and conditions contained herein.

10. Employer Release. Employer, for itself and its subsidiaries, officers, directors, agents, successors, assigns, and the Released Parties, hereby forever and fully releases Employee and his heirs, executors, administrators, personal representatives, agents, affiliates, successors and assigns, of and from any and all actions, causes of action, suits, debts, sums of money, accounts, covenants, contracts, agreements, arrangements, promises, obligations, warranties, trespasses, torts, injuries, losses, damages, claims, demands or other liability or relief of any nature whatsoever, whether known or unknown, foreseen or unforeseen, resulting or to result, whether in law or in equity, or before administrative agencies or departments that Employer ever had, now has or hereafter can, shall or may have, by reason of or arising out of Employee's employment with Employer, and for libel, slander, breach of contract, breach of the implied covenant of good faith and fair dealing, assault, battery, intentional infliction of emotional distress, tort or any other theory under the common law of any state.

11. Employer Waiver. Employee also expressly waives all other individual and/or collective rights, if any, whether or not set forth in this Agreement, notwithstanding section 1542 of the California Civil Code. This waiver is not a mere recital, but is a known waiver of rights and benefits. This is a bargained-for provision of this Agreement and is further consideration for the covenants and conditions contained herein.

12. Employer Acknowledgement. It is expressly understood and agreed by Employer that this Agreement is in full accord, satisfaction and discharge of disputed claims and that this Agreement has been executed with the express intention of effectuating the legal consequences provided for in section 1541 of the California Civil Code, i.e., the extinguishing of all obligations, known or unknown. This Agreement is not a mere recital, but is a bargained-for provision of this Agreement and is further consideration for the covenants and conditions contained herein.

13. Agreement Not To Sue. Except for an action arising out of a breach of this Agreement, Employee and Employer agree that neither party will bring (or cause to be brought) any claim, action or proceeding against each other or any of the Released Parties (in the case of Employee) regarding any act or failure to act that occurred up to the time that Employer signs

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this Agreement, including but not limited to any claim, action or proceeding relating to Employee's employment with any of the Companies or Employee's separation from employment by Employer. Employee and Employer represent that no such action was pending when Employee and Employer signed this Agreement. If any such action is brought by Employer after Employee signs this Agreement, Employee will immediately become ineligible for any further consideration from Employer under this Agreement and agrees to return immediately to Employer all consideration that Employee has then received from Employer under this Agreement.

14. No Reinstatement or Reemployment. Employee waives any reinstatement or future employment with Employer, and agrees never to apply for employment or otherwise seek to be hired, rehired, employed, reemployed, or reinstated by Employer.

15. Non-disparagement by Employee. Employee agrees not to do anything, and not to make any oral or written statement to any person (including without limitation any employee, client, customer, supplier, or vendor of Employer), that disparages or places in a false or negative light: (a) Employer, or (b) any past or present officer, employee, product, or service of Employer. Employee affirms that Employee has not done or said anything before signing this Agreement that would violate this paragraph.

16. Non-disparagement by Employer. Employer agrees not to do anything, and not to make any oral or written statement to any person (including without limitation to any employee, client, customer, supplier or vendor of Employer), that disparages or places Employee in a false or negative light.

17. Non-admission. (a) This Agreement does not constitute an admission by any of the Released Parties that any action that any of them took or failed to take with respect to Employee was wrongful, unlawful, in violation of any local, state, or federal constitution, law, statute, or regulation, or susceptible of inflicting any damages or injury on Employee, and Employer specifically denies any such wrongdoing or violation.

(b) This Agreement does not constitute an admission by Employee that any action that Employee took or failed to take with respect to Employer or any of the Released Parties was wrongful, unlawful, in violation of any local, state, or federal constitution, law, statute, or regulation, or susceptible of inflicting any damages or injury on Employer or any of the Released Parties, and Employee specifically denies any such wrongdoing or violation.

18. Agreement Inadmissible as Evidence. This Agreement, its execution, and implementation may not be used as evidence, and shall not be admissible, in a subsequent proceeding of any kind, except one which either party institutes claiming a violation of this Agreement, or challenging the knowing and voluntary nature of Employee's waiver of rights under the ADEA in this Agreement.

19. Confidentiality. Except as may be specifically required by law or as has already been disclosed in public filings, Employee will not disclose, after the date hereof, any

indicate, or in any manner communicate any term of this Agreement to any other person except Employee's current spouse (if any), Employee's accountant or financial advisor to the limited extent needed for that person to prepare Employee's tax returns, or Employee's attorney. Before any such authorized disclosure, Employee will inform each such person to whom disclosure is to be made that every term of this Agreement is confidential and secure the agreement of each such person to maintain the confidentiality of the entire Agreement.

20. Non-Solicitation. Independent of any other obligation under this Agreement during the term of Employee's employment and for a period of one (1) year following the Separation Date, Employee shall not, within a radius of fifty (50) miles of any location of a Employer's office, directly or indirectly on Employee's own behalf or on behalf of any business which provides or sells services or products in competition with Employer, do any of the following: solicit, interfere with, or endeavor to entice away from Employer any clients or potential clients of Employer or the Companies, provided, however, that this provision shall not preclude Employee from soliciting clients to provide goods or services that do not compete with, or are provided by, Employer. A "potential client" is defined for purposes of this Agreement as any party whom the Companies have made a written proposal/solicitation for business during the twelve (12) months prior to the Separation Date and with whom the Companies have not terminated negotiations concerning such business.

Independent of any other obligation under this Agreement, during the term of Employee's employment and for a period of one (1) year following the Separation Date for any reason, Employee shall not within a radius of fifty (50) miles of any location of a Employer's office, directly or indirectly on Employee's own behalf, or on behalf of any business which provides or sells services or products in competition with Employer, do any of the following: employ, solicit or endeavor to entice away from Employer any person who is then currently employed by Employer and who was employed with Employer during Employee's employment. This provision shall not apply to any person whose employment with Employer has been terminated for more than 6 months.

21. Proprietary Information. Employer agrees not disclose to any third party for use in competition with Employer any of Employer's proprietary confidential information or trade secrets, or that of its clients, as provided for under applicable law, including but not limited to: purchasing service requirements, operations, equipment systems software, the names, buying habits and practices of the Companies' customers; the Companies' sales, marketing and related information; the Companies' products, designs, software, performance and financial requirements; information about the skills, expertise, experience and compensation of the Companies' employees; and the Companies' business plans. Employee agrees that on or prior to the Separation Date, Employee shall turn over to Employer, or if Employer agrees, certify that he has destroyed, all files, documents, lists of clients and any other materials obtained from Employer or developed during the course of employment except for the assets described in Section 4.

22. Remedies. Employee agrees that it would be difficult to measure any damages caused to Employer which might result from any breach by Employee of any promises set forth in Paragraphs 20-21, and that in any event money damages would be an inadequate remedy for

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any such breach. Accordingly, Employee agrees that if Employee breaches or proposes to breach any of Paragraphs 20-21, Employer shall be entitled, in addition to all other remedies that it may have, to injunction or other appropriate equitable relief to restrain any such breach without showing or proving any actual damage.

23. Entire Agreement/Governing Law. This Agreement contains the entire agreement and understanding between Employee and Employer concerning Employee's employment with and separation by Employer. This Agreement supersedes and replaces any and all prior oral or written agreements, discussions, negotiations, understandings, or proposals of the parties concerning Employee's relationship with Employer. This Agreement may only be amended in writing signed by Employee and an authorized representative of Employer. This Agreement shall be governed by the laws of the state of Illinois, without regard to its conflict of laws rules.

24. Breach of Agreement. In the event that Employee is in breach of this Agreement, Employee shall pay Employer, as liquidated damages, and not as a penalty, the sum equal to 40% of the gross amount of the Severance Benefits provided to Employee herein. If Employee or Employer prevails in a legal action claiming that the other party has breached this Agreement, the breaching party shall be liable for the reasonable attorneys' fees and costs incurred by the other party in connection with such action.

25. Severability. The provisions of this Agreement shall be severable and the invalidity of any provision shall not affect the validity of the other provisions; provided, however, that upon a finding by a court of competent jurisdiction that a release of claims or rights in paragraphs 7 and 10 above, or any agreement in paragraph 13 above, is illegal, void or unenforceable, Employee agrees, at Employer's option, to execute promptly a release waiver and/or agreement that is legal and enforceable or, upon written notice from Employer, to return promptly to Employer that portion of the value of the consideration described in paragraph 3 above deemed appropriate by Employer.

26. Revocation Period. Employee has the right to revoke this Agreement for up to seven (7) days after Employee signs it. In order to revoke this Agreement, Employee must sign and send a written notice of the decision to do so, addressed to David Shelov, Vice President & General Counsel, 311 South Wacker Drive, Suite 3500, Chicago, Illinois 60606 and the written notice must be received by Employer no later than the eighth day after Employee signed this Agreement. If Employee revokes this Agreement, the Employee will not be entitled to any of the consideration from Employer described in paragraph 3 above other than such consideration Employee would be entitled to without this Agreement.

27. Knowing and Voluntary Waiver. Employee acknowledges that:

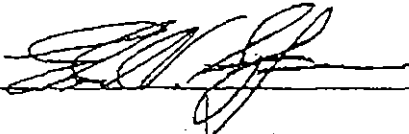
- a. Employee has carefully read this Agreement and fully understands its meaning;
- b. Employee had the opportunity to take up to 21 days after receiving this Agreement to review it before signing below;

Handwritten signature and initials, possibly 'RTE', in the bottom right corner of the page.

- c. Employer advised Employee in writing, upon presenting this Agreement to Employee, to review this Agreement with an attorney before signing it;
- d. Employee has full knowledge of the significance and effect of this Agreement, and is entering into it knowingly, voluntarily, and without any coercion or duress; and
- e. the only consideration Employee has received for signing this Agreement is described herein, and no other promises or representations of any kind have been made by any person or entity to cause Employee to sign it.

marchFIRST, Inc.


 Robert T. Clarkson

By 

Title: Chief Development Officer

Dated: 13 October 2000

Dated: 10/13/2000