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# OPINION

## A Win for Black Entrepreneurship: Is the New FTC Ban Good for Black Businesses?

In what has since created shockwaves across the nation, the Federal Trade Commission (FTC) voted 3-2 for banning non-compete agreements, which goes into effect 120 days after the rule is officially published in the Federal Register. This decision will undoubtedly have significant impact on both employers and employees alike, but what about black entrepreneurs?

The FTC defines a non-compete clause as, “a term or condition of employment that prohibits a worker from, penalizes a worker for, or functions to prevent a worker from (1) seeking or accepting work in the United States with a different person where such work would begin after the conclusion of the employment that includes the term or condition; or (2) operating a business in the United States after the conclusion of the employment that includes the term or condition.”

Historically, non-competes have been used to restrict employees from working in the same industry after leaving their former employer. Though the intention is to protect the intellectual property of businesses, non-competes have often negatively affected competition in product and service markets, especially with Black workers.

If written properly, most non-competes have outlined specific restrictions of a current or former worker, who can be their employer, where they can work for said employer, and for how long they aren't allowed to work for an employer, which can be unduly burdensome. Imagine be-



Taalib Saber, attorney and owner of The Saber Firm

ing told who to work for and who not to work for. That basically is a non-compete. Those who have signed non-competes and wish to increase their salaries, will either have to accept where they are or change industries and possibly, locations. These are all un-

necessary hassles that restrict a competitive market and perpetuate wage suppression.

I have reviewed contractual agreements of several Black clients who I have worked with in a variety of areas, from tech to entertainment. Many of my clients

desired to venture out or hang up their proverbial “shingle,” signaling the start of their own business, but have been deterred by these non-compete clauses.

Approximately 18 percent of the workforce, which is about 30 million people, is covered by non-compete agreements. In the Black community, there's a saying that goes, “If a white person has a cold, then a black person has pneumonia.” What this essentially means is that if the majority of Americans are suffering from a particular thing, that thing already has, currently is, or will be suffered much more by Black people. Here, if many Americans are experiencing the effects of wage suppression and restrictions in the market, then the Black community feels it worse. Add in Black workers who want to start their journey to entrepreneurship and it becomes an almost impossible task to accomplish.

FTC estimates that the impact of banning non-competes could increase worker pay by \$300 billion and it can lead to 8,500 more new businesses each year. For Black entrepreneurs, the elimination of non-competes can now open the door to new innovations, creativity, and fairer competition in the marketplace. This ban can help business owners attract top talent, as there would be no restrictions on the mobility of skilled workers; thus, strengthening their businesses and enhancing their competitiveness.

With that stated, there will be several legal challenges to the implementation of the FTC's non-compete ban. Within 24

hours of the vote being published, both the United States (US) Chamber of Commerce, the world's largest business organization, and the Business Roundtable, an association of chief executive officers of America's leading companies, filed suit against the federal agency.

In a statement released announcing the lawsuit, the US Chamber of Commerce declares, “[t]he FTC contends that by using regulation they can simply declare common business practices to be ‘unfair methods of competition’ and thus illegal. This is despite the fact that non-compete agreements have been around longer than the 110-year-old FTC and until now no one has suggested that they are illegal.” It goes on to state, “[i]f the FTC can regulate non-compete agreements, then they can decide to regulate or even ban any other business practice. All without a vote from Congress.”

I believe that many more businesses, organizations, associations, and groups will file lawsuits and lobby against, what they believe, is an overreach by the Federal Trade Commission on governing business transactions. Furthermore, if any of the federal courts who hear the cases decide to grant a stay or a preliminary injunction on the ruling, the effective date could be postponed. Then, if the cases are appealed thereafter, the ruling would be delayed for many more months.

So while this non-compete ban could take some time to go into effect, black entrepreneurs should start positioning themselves to take advantage of it.




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Brothers Sisters, Coach John here. I would like to seriously chat with you all, in a very meaningful way, if I could, because I really believe that WE CAN MAKE a GREATER difference for, and with each other, if we would be more open to the truth, and learn to listen with hearts and not just with our ears. We're currently NOT connecting in a way that could bring "US" greater success. So let's examine our actions together.

For those of you who are aware of the book of ACTS in the Bible, It is interesting to note, that the book of ACTS located in the New Testament of the bible talks about the ACTS OF THE APOSTLES that brought about positive uplifting RESULTS for others, and themselves, because of their positive collective actions.

I'll be at Elmer's restaurant located NE 100th Sandy Blvd at 6:30pm Wednesday eve May 8th. A special refreshment is on me for those who show up.

Seriously if you want to QUALIFY to get paid daily in SHG WITHOUT SELLING please show up. Thanks much, Coach John 503-358-9655