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FEDERAL TRADE COMMISSION
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DISTRICT OF NEVADA
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FEDERAL TRADE COMMISSION,)

Plaintiff,

CV-S-03-1306-LRH-RJJ

v.

CHRISTOPHER BAITH,)
COSME MONARREZ, JR., and)
SORABH VERMA,)
Defendants.)

**[PROPOSED] STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT
INJUNCTION AS TO DEFENDANT SORABH VERMA**

Plaintiff Federal Trade Commission ("Commission") filed its
Complaint alleging that Defendants Cosme Monarrez, Jr.,
Christopher Baith, and Sorabh Verma created and disseminated
deceptive unsolicited commercial email, commonly known as spam,
in violation of Section 5 of the Federal Trade Commission Act
("FTC Act"), 15 U.S.C. § 45.

4

1 Plaintiff Federal Trade Commission and Defendant Verma have
2 agreed to entry of this proposed Stipulated Final Judgment And
3 Order For Permanent Injunction as to Defendant Sorabh Verma
4 ("Order") to resolve all matters in dispute in this action.

5
6 **FINDINGS**

- 7 1. This Court has jurisdiction over the subject matter of
8 the case and over the parties hereto;
- 9 2. The Complaint states claims upon which relief may be
10 granted against Defendants under Sections 5 and 13(b)
11 of the FTC Act, 15 U.S.C. §§ 45 and 53(b);
- 12 3. Venue lies properly with this Court under 28 U.S.C. §
13 1391(b) and (c) and 15 U.S.C. § 53(b);
- 14 4. This Order is in the best interest of all of the
15 parties in this action, and after weighing the equities
16 is in the public interest;
- 17 5. Defendant enters into this Order freely and without
18 coercion, and acknowledges that he understands the
19 provisions of this Order and is prepared to abide by
20 them;
- 21 6. Plaintiff and Defendant waive all rights to seek
22 appellate review or otherwise challenge or contest the
23 validity of this Order. The parties agree that nothing
24 herein shall preclude any party from seeking appellate
25 review of any proceeding to enforce this Order, but
26 agree not to challenge or contest, in any manner, the
27
28

1 Plaintiff Federal Trade Commission and Defendant Verma have
2 agreed to entry of this proposed Stipulated Final Judgment And
3 Order For Permanent Injunction as to Defendant Sorabh Verma
4 ("Order") to resolve all matters in dispute in this action.
5

6 FINDINGS

- 7 1. This Court has jurisdiction over the subject matter of
8 the case and over the parties hereto;
- 9 2. The Complaint states claims upon which relief may be
10 granted against Defendants under Sections 5 and 13(b)
11 of the FTC Act, 15 U.S.C. §§ 45 and 53(b);
- 12 3. Venue lies properly with this Court under 28 U.S.C. §
13 1391(b) and (c) and 15 U.S.C. § 53(b);
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15 parties in this action, and after weighing the equities
16 is in the public interest;
- 17 5. Defendant enters into this Order freely and without
18 coercion, and acknowledges that he understands the
19 provisions of this Order and is prepared to abide by
20 them;
- 21 6. Plaintiff and Defendant waive all rights to seek
22 appellate review or otherwise challenge or contest the
23 validity of this Order. The parties agree that nothing
24 herein shall preclude any party from seeking appellate
25 review of any proceeding to enforce this Order, but
26 agree not to challenge or contest, in any manner, the
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1 validity of this Order in such a proceeding. Defendant
2 further waives and releases any claim he may have
3 against Plaintiff, its employees, representatives, or
4 agents as of the date of this Order;

5 7. Defendant has agreed that he will not seek to obtain
6 attorneys' fees as a prevailing party under the Equal
7 Access to Justice Act, 28 U.S.C. § 2412, amended by PL
8 104-121, 110 Stat. 847, 863-64 (1996), and Defendant
9 further waives any rights to attorneys' fees that may
10 arise under said provision of law; and

11 8. The acts and practices of Defendant were or are in or
12 affecting commerce, as "commerce" is defined in Section
13 4 of the FTC Act, 15 U.S.C. § 44.
14

15
16 **DEFINITIONS**

17 For the purpose of this Order, the following definitions
18 shall apply:

- 19 A. "Defendant" means Sorabh Verma, including but not
20 limited to the use of aliases and names under which he
21 currently does business or may do business in the
22 future.
23
24 B. "Internet" means a worldwide system of linked computer
25 networks that use a common protocol (TCP/IP) to deliver
26 and receive information. The "Internet" includes, but
27 is not limited to, the following forms of electronic
28 communication: email, the World Wide Web, newsgroups,

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Internet Relay Chat, and file transfer protocols.

C. "Unsolicited commercial email" means an electronic mail message that consists of or contains a communication advertising, promoting, soliciting, offering, or offering to sell any product or service, and that is not requested by the addressee or recipient or sent pursuant to a pre-existing business or personal relationship between the sender and the addressee or recipient of the email.

D. "Videotext services" means visual (and possibly audio) information and entertainment services offered over the Internet through individual Websites.

E. "Webpage" is a single electronic document on the World Wide Web, readily viewable on a computer by anyone with access to the Internet and standard Internet browser software. Every Webpage on the World Wide Web is identified by a globally unique address.

F. "Website" is a set of electronic documents, usually a home page and subordinate pages, readily viewable using a computer by anyone with access to the Internet, standard Internet browser software, and knowledge of the Website's location or address.

G. "World Wide Web" or "Web" means a system used on the Internet for cross-referencing and retrieving information.

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ORDER

I.

INJUNCTIONS AGAINST MISREPRESENTATIONS

IT IS THEREFORE ORDERED that in connection with the advertising, promotion, offering for sale, sale, or delivery of, or billing or collecting for, any videotext service, Defendant is hereby permanently restrained from:

- A. Misrepresenting any material fact; and
- B. Sending or causing to be sent any email, including but not limited to unsolicited commercial email, that misrepresents the identity of the sender (e.g., falsifying information in the "from" line of an email) or the subject of the email (e.g., falsifying the information contained in the "subject" line of the email).

II.

ACCESS TO BUSINESS PREMISES

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, for the purpose of further determining compliance with this Order, Defendant shall permit representatives of the Commission, within three (3) business days of receipt of written notice from the Commission:

- A. Access during normal business hours to any office, or facility storing documents, of any business where
 - 1. Defendant is the majority owner of the business or

1 directly or indirectly manages or controls the
2 business, and

3 2. the business is engaged in the advertising,
4 promotion, offering for sale, sale, or delivery
5 of, or billing or collecting for, any videotext
6 service.

7
8 In providing such access, Defendant shall permit representatives
9 of the Commission to inspect and to copy all documents relevant
10 to any matter contained in this Order, and shall permit
11 Commission representatives to remove documents relevant to any
12 matter contained in this Order for a period not to exceed five
13 (5) business days so that the documents may be inspected,
14 inventoried, and copied; and

15
16 B. To interview the officers, directors, and employees,
17 including all personnel involved in responding to
18 consumer complaints or inquiries, and all sales
19 personnel, whether designated as employees,
20 consultants, independent contractors or otherwise, of
21 any business to which Subsection A of this Section
22 applies, concerning matters relating to compliance with
23 the terms of this Order. The person interviewed may
24 have counsel present.

25
26 *Provided that, upon application of the Commission and for*
27 *good cause shown, the Court may enter an ex parte order granting*
28 *immediate access to Defendant's business premises for the*

1 purposes of inspecting and copying all documents relevant to any
2 matter contained in this Order.

3 **III.**

4 **COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE**

5 **IT IS FURTHER ORDERED** that the Commission is authorized to
6 monitor Defendant's compliance with this Order by all lawful
7 means, including but not limited to the following means:
8

9 A. The Commission is authorized, without further leave of
10 court, to obtain discovery from any person in the
11 manner provided by Chapter V of the Federal Rules of
12 Civil Procedure, Fed. R. Civ. P. 26 - 37, including the
13 use of compulsory process pursuant to Fed. R. Civ. P.
14 45, for the purpose of monitoring and investigating
15 Defendant's compliance with any provision of this
16 Order.
17

18 B. The Commission is authorized to use representatives
19 posing as consumers and suppliers of Defendant,
20 Defendant's employees, or any other entity managed or
21 controlled in whole or in part by Defendant, without
22 the necessity of identification or prior notice.
23

24 C. Nothing in this Order shall limit the Commission's
25 lawful use of compulsory process, pursuant to Sections
26 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to
27 investigate whether Defendant has violated any
28

1 provision of this Order or Section 5 of the FTC Act, 15
2 U.S.C. § 45.

3 IV.

4 COMPLIANCE REPORTING BY DEFENDANT

5 IT IS FURTHER ORDERED that, in order that compliance with
6 the provisions of this Order may be monitored:
7

8 A. For a period of five (5) years from the date of entry
9 of this Order, Defendant shall notify the Commission of
10 the following:

- 11 1. Any changes in Defendant's residence, mailing
12 addresses, and telephone numbers, within ten (10)
13 days of the date of such change;
- 14 2. Any changes in Defendant's employment status
15 (including self-employment) within ten (10) days
16 of such change. Such notice shall include the
17 name and address of each business that Defendant
18 is affiliated with or employed by, a statement of
19 the nature of the business, and a statement of
20 Defendant's duties and responsibilities in
21 connection with the business or employment; and
- 22 3. Any proposed change in the structure of any
23 business entity owned or controlled by Defendant,
24 such as creation, incorporation, dissolution,
25 assignment, sale, creation or dissolution of
26 subsidiaries, or any other change that may affect
27
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1 compliance obligations arising out of this Order,
2 thirty (30) days prior to the effective date of
3 any proposed change.

4 B. One hundred eighty (180) days after the date of entry
5 of this Order, Defendant shall provide a written report
6 to the Commission, sworn to under penalty of perjury,
7 setting forth in detail the manner and form in which he
8 has complied and is complying with this Order. This
9 report shall include, but not be limited to:

- 11 1. Defendant's then current residential address and
12 telephone number;
- 13 2. Defendant's then current employment, business
14 addresses and telephone numbers, a description of
15 the business activities of each such employer, and
16 Defendant's title and responsibilities for each
17 employer;
- 18 3. A copy of each acknowledgment of receipt of this
19 Order obtained by Defendant pursuant to Section V
20 of this Order; and
- 21 4. A statement describing the manner in which
22 Defendant has complied and is complying with the
23 prohibitions contained in Section I of this Order.

24 C. Upon written request by a representative of the
25 Commission, Defendant shall submit additional written
26 reports (under oath, if requested) and produce
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28

1 documents on fifteen (15) days' notice with respect to
2 any conduct subject to this Order.

3 D. For the purposes of this Order, Defendant shall, unless
4 otherwise directed by the Commission's authorized
5 representatives, mail all written notifications to the
6 Commission to:

7
8 Associate Director for the Division of Marketing Practices
9 Federal Trade Commission
600 Pennsylvania Avenue, NW Room H-238
Washington, DC 20580

10 Re: FTC v. Christopher Baith, Cosme Monarrez, Jr., and Sorabh
11 Verma

12 E. For the purposes of this Section, "employment" includes
13 the performance of services as an employee, consultant,
14 or independent contractor; and "employers" include any
15 individual or entity for whom Defendant performs
16 services as an employee, consultant, or independent
17 contractor.

18 F. For purposes of the compliance reporting required by
19 this Section, the Commission is authorized to
20 communicate directly with Defendant.
21

22 V.

23 **DISTRIBUTION OF ORDER BY DEFENDANT**

24 **IT IS FURTHER ORDERED** that, for a period of five (5) years
25 from the date of entry of this Order, Defendant shall:

26 A. Provide a copy of this Order to, and obtain a signed
27 and dated acknowledgment of receipt of same from, each
28

1 officer or director, each individual serving in a
2 management capacity, all personnel involved in
3 responding to consumer complaints or inquiries, and all
4 sales personnel, whether designated as employees,
5 consultants, independent contractors or otherwise,
6 immediately upon employing or retaining any such
7 persons, for any business where

8
9 1. Defendant is the majority owner of the business or
10 directly or indirectly manages or controls the
11 business, and

12 2. the business is engaged in the advertising,
13 promotion, offering for sale, sale, or delivery
14 of, or billing or collecting for, any videotext
15 service, or assisting others engaged in these
16 activities.
17

18 B. Maintain for a period of three (3) years after
19 creation, and upon reasonable notice, make available to
20 representatives of the Commission, the original signed
21 and dated acknowledgments of the receipt of copies of
22 this Order, as required in Subsection A of this
23 Section.
24

25 **VI.**

26 **ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

27 **IT IS FURTHER ORDERED** that, within five (5) business days
28 after receipt by Defendant of this Order as entered by the Court,

1 Defendant shall submit to the Commission a truthful sworn
2 statement, in the form shown on Appendix A, that shall
3 acknowledge receipt of this Order.

4
5 **VII.**

6 **RECORD KEEPING PROVISIONS**

7 **IT IS FURTHER ORDERED** that, for a period of eight (8) years
8 from the date of entry of this Order, in connection with the
9 advertising, promotion, offering for sale, sale, or delivery of,
10 or billing or collecting for, any videotext service Defendant and
11 his agents, employees, officers, corporations, successors, and
12 assigns, and those persons in active concert or participation
13 with them who receive actual notice of this Order by personal
14 service or otherwise, are hereby restrained and enjoined from
15 failing to create and retain the following records:
16

- 17 A. Accounting records that reflect the cost of goods or
18 services sold, revenues generated, and the disbursement
19 of such revenues;
- 20 B. Personnel records accurately reflecting: the name,
21 address, and telephone number of each person employed
22 in any capacity by such business, including as an
23 independent contractor; that person's job title or
24 position; the date upon which the person commenced
25 work; and the date and reason for the person's
26 termination, if applicable;
- 27
28 C. Customer files containing the names, addresses, phone

1 numbers, dollar amounts paid, quantity of items or
2 services purchased, and description of items or
3 services purchased, to the extent such information is
4 obtained in the ordinary course of business;

- 5 D. Complaints and refund requests (whether received
6 directly, indirectly, or through any third party) and
7 any responses to those complaints or requests; and
8
9 E. Copies of all sales scripts, training materials,
10 advertisements, Websites, Webpages, or other marketing
11 materials.

12
13 **VIII.**

14 **EFFECT OF EXPIRATION OF PARTS OF THE ORDER**

15 **IT IS FURTHER ORDERED** that the expiration of any requirement
16 imposed by this Order shall not affect any other obligation
17 arising under this Order.

18 **IX.**

19 **THE ORDER CONSTITUTES FINAL JUDGEMENT**

20 The parties hereby stipulate and agree, without further
21 notice to any of them, to entry of the foregoing Order, which
22 shall constitute a final judgment in this action. Defendant
23 hereby waives any claim he may have under the Equal Access to
24 Justice Act, 28 U.S.C. § 2412, amended by PL 104-121, 110 Stat.
25 847, 863-64 (1996), concerning the prosecution of this action to
26 the date of this Order.

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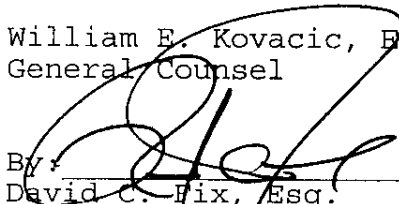
COURT'S JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

SO STIPULATED

William E. Kovacic, Esq.
General Counsel

Dated: *15 October 2003*

By: 
David C. Fix, Esq.
Renard C. François, Esq.
Attorneys for Plaintiff
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Telephone: (202) 326-3298 (Fix)
Telephone: (202) 326-2251 (François)
Facsimile: (202) 326-3395

Sorabh Verma

Dated: *3/12/03*

By: 
Sorabh Verma, Pro Se

There being no just cause for delay, this proposed Order is hereby entered this *25th* day of *November*, 2003.

IT IS SO ORDERED.

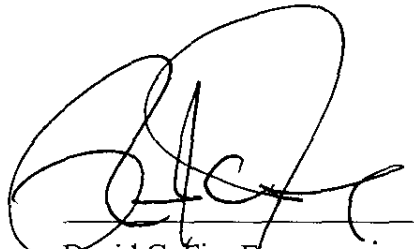

United States District Judge
District of Nevada

CERTIFICATE OF SERVICE

I hereby certify that a copy of

- (i) the Complaint and
- (ii) [Proposed] Stipulated Final Judgment and Order for Permanent Injunction as to Defendant Sorabh Verma

was served, via Federal Express, on Sorabh Verma, 175-27 Wexford Terrace, Apt 7G, Jamaica, New York 11432 on Thursday, October 16th, 2003.



David C. Fix, Esq.

Renard C. François, Esq.