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FILED
CLERK, U.S. DISTRICT COURT
NOV 25 2002
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION BY DEPUTY

8
9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
11 **EASTERN DIVISION**

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12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 vs.

16 CALIFORNIA AUTOCARE
CORPORATION, AUTOCARE
17 AMERICORP, JOSEPH SANFELLIPO,
JAMES E. GASPER, KIMBALL R.
18 VANCE, JR., and ELIHU M. SIGAL,

19 Defendants.

Case No. EDCV 02-1229 VAP (SGLx)

**JUDGMENT OF PERMANENT
INJUNCTION AND OTHER
RELIEF AGAINST JOSEPH
SANFELLIPO**

ENTERED

NOV 26 2002

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

DEPUTY,

21 Plaintiff Securities and Exchange Commission ("Commission"), having
22 filed and served upon Defendant Joseph Sanfelliipo ("Sanfelliipo") a Summons and
23 Complaint in this action; Sanfelliipo having admitted service upon him of the
24 Summons and Complaint in this action and the jurisdiction of this Court over him
25 and over the subject matter of this action; having been fully advised and informed
26 of his right to a judicial determination of this matter; having waived the entry of
27 findings of fact and conclusions of law as provided by Rule 52 of the Federal
28 Rules of Civil Procedure; having consented to the entry of this Judgment Of

NOV 26 2002
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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

1 Permanent Injunction And Other Relief Against Joseph Sanfellipo (“Judgment”)
2 without admitting or denying the allegations in the Complaint, except as
3 specifically set forth in the Consent Of Joseph Sanfellipo To Entry Of Final
4 Judgment Of Permanent Injunction And Other Relief (“Consent”); no notice of
5 hearing upon the entry of this Judgment being necessary; and this Court being
6 fully advised:

7 **I.**

8 IT IS ORDERED, ADJUDGED AND DECREED that Sanfellipo and his
9 agents, servants, employees, and attorneys, and those persons in active concert or
10 participation with them who receive actual notice of this Judgment by personal
11 service or otherwise, are permanently restrained and enjoined from, directly or
12 indirectly:

- 13 A. making use of any means or instruments of transportation or
14 communication in interstate commerce or of the mails to sell any
15 security through the use or medium of any prospectus or otherwise,
16 unless a registration statement is in effect as to such security;
- 17 B. carrying or causing to be carried through the mails or in interstate
18 commerce, by any means or instruments of transportation, any such
19 security for the purpose of sale or for delivery after sale, unless a
20 registration statement is in effect as to such security; and
- 21 C. making use of any means or instruments of transportation or
22 communication in interstate commerce or of the mails to offer to sell
23 or offer to buy through the use or medium of any prospectus or
24 otherwise, any security, unless a registration statement has been filed
25 with the Commission as to such security, or while a registration
26 statement is the subject of a refusal order or stop order or (prior to the
27 effective date of the registration statement) any public proceeding of
28 examination under Section 8 of the Securities Act of 1933

1 (“Securities Act”), 15 U.S.C. § 77h;
2 in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) &
3 77e(c).

4 **II.**

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
6 Sanfellipo and his agents, servants, employees and attorneys, and those persons in
7 active concert or participation with them who receive actual notice of this
8 Judgment by personal service or otherwise, are permanently restrained and
9 enjoined from, directly or indirectly, in the offer or sale of any securities, by the
10 use of any means or instruments of transportation or communication in interstate
11 commerce or by the use of the mails:

- 12 A. employing any device, scheme or artifice to defraud;
13 B. obtaining money or property by means of any untrue statement of a
14 material fact or any omission to state a material fact necessary in
15 order to make the statements made, in light of the circumstances
16 under which they were made, not misleading; or
17 C. engaging in any transaction, practice, or course of business which
18 operates or would operate as a fraud or deceit upon the purchaser;
19 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

20 **III.**

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
22 Sanfellipo and his agents, servants, employees and attorneys, and those persons in
23 active concert or participation with them who receive actual notice of this
24 Judgment by personal service or otherwise, are permanently restrained and
25 enjoined from, directly or indirectly, in connection with the purchase or sale of any
26 security, by the use of any means or instrumentality of interstate commerce, or of
27 the mails, or of any facility of any national securities exchange:

- 28 A. employing any device, scheme, or artifice to defraud;

1 B. making any untrue statement of a material fact or omitting to state a
2 material fact necessary in order to make the statements made, in the
3 light of the circumstances under which they were made, not
4 misleading; or

5 C. engaging in any act, practice, or course of business which operates or
6 would operate as a fraud or deceit upon any person;

7 in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange
8 Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

9 IV.

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that

11 Sanfellipo shall disgorge all income and/or funds ultimately received by him
12 directly or indirectly, in any form, from California Autocare Corporation ("CAC"),
13 AutoCare Americorp ("AutoCare"), AutoCare Partners, LLC, or any of their
14 officers, agents, servants, employees or affiliates, including, but not limited to,
15 income and/or funds received while he was employed by NetStreet Financial, Inc.,
16 resulting from his participation in the offer and sale of promissory notes payable
17 by CAC and/or AutoCare and the offer and sale of common stock in CAC and/or
18 AutoCare. Such income and/or funds to be disgorged include without limitation,
19 checks, cash, securities and any assets purchased by Sanfellipo with the proceeds
20 from the sales of such securities, together with prejudgment interest. Prejudgment
21 interest shall be calculated pursuant to 28 U.S.C. § 1961. Prejudgment interest
22 shall be calculated from the date of each receipt of income and/or funds by
23 Sanfellipo to the date the judgment fixing the amount of disgorgement is entered,
24 ignoring partial months, and shall be compounded quarterly. Sanfellipo shall not
25 raise as a defense that he is not liable for the payment of such disgorgement or for
26 civil penalties, if any, because he did not violate one or more of the provisions of
27 the Securities Act and Exchange Act and Exchange Act Rule set forth in this
28 Judgment Accordingly, solely for the purposes of determining the amount of

1 disgorgement and whether to impose a penalty and, if so, in what amount, the facts
2 alleged in the Commission's Complaint are accepted as and deemed true by the
3 Court. Sanfello may therefore only offer proof as to the actual amount(s) of
4 funds that he ultimately received.

5 **V.**

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
7 provisions of the Consent filed concurrently with this Judgment are incorporated
8 herein with the same force and effect as if fully set forth herein and that Sanfello
9 shall comply with his Consent.

10 **VI.**

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
12 Sanfello shall forthwith give access to and control to the Receiver of any assets,
13 books, records, securities, or other property of CAC, AutoCare, and their
14 subsidiaries and affiliates, which are in his possession, custody or control.

15 **VII.**

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
17 Sanfello and his agents, servants, employees and attorneys, shall cooperate with
18 and assist the Receiver appointed in this case and shall take no action, directly or
19 indirectly, to hinder, obstruct, or otherwise interfere with the Receiver or his
20 attorneys, accountants, employees or agents, in the conduct of his duties or to
21 interfere in any manner, directly or indirectly, with the custody, possession,
22 management, or control by the Receiver of the funds, assets, collateral, premises,
23 and choses in action belonging to, being managed by or in the possession of or
24 control of CAC and AutoCare, and any of their subsidiaries and affiliates.

25 **VIII.**

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, except
27 as otherwise ordered by this Court, Sanfello and his agents, servants, employees,
28 and attorneys, and those persons in active concert or participation with them, who

1 receive actual notice of this Judgment, by personal service or otherwise, and each
2 of them, are restrained and enjoined from, directly or indirectly:

3 A. transferring, assigning, selling, hypothecating, changing, wasting,
4 dissipating, converting, concealing, encumbering, or otherwise
5 disposing of, in any manner, any funds, assets, securities, claims, or
6 other real or personal property, wherever located, of CAC, AutoCare,
7 or their subsidiaries or affiliates, owned by, controlled by, managed
8 by or in the possession or custody of any of them.

9 B. transferring, assigning, selling, hypothecating, encumbering, or
10 otherwise disposing of any securities, including, but not limited to,
11 any stock, promissory notes or other securities of CAC or AutoCare
12 or any of their subsidiaries or affiliates.

13 **IX.**

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the asset
15 freeze provided for in paragraphs VI and VII. of the November 14, 2002,
16 Temporary Restraining Order And Orders: (1) Freezing Assets; (2) Appointing A
17 Temporary Receiver; (3) Prohibiting the Destruction Of Documents; (4) Granting
18 Expedited Discovery; (5) For Accountings; And Order To Show Cause Re
19 Preliminary Injunction And Appointment Of A Permanent Receiver remain in full
20 force and effect as to Sanfellipo until further order of this Court.

21 **X.**

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED
23 that during the pendency of this action against any defendant, Sanfellipo shall
24 remain subject to the discovery provisions of the Federal Rules of Civil Procedure
25 which apply to parties, and, in addition, that Sanfellipo agrees and undertakes,
26 without service of a subpoena, to appear for his deposition or to testify as a
27 witness at any trial of this action or at any related proceeding. Failure to comply
28 with the foregoing will subject Sanfellipo to the remedies and sanctions set forth

1 in Rule 37 of the Federal Rules of Civil Procedure and all other available
2 remedies.


3 **XI.**

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this
5 Court shall retain jurisdiction over this action for all purposes, including
6 implementing and carrying out the terms of this Judgment and all other orders
7 which may be entered herein, to resolve the Commission's pending claims against
8 Sanfellipo for disgorgement together with prejudgment interest and for civil
9 penalties, and to entertain any suitable application or motion for additional relief
10 within the jurisdiction of this Court.

11 **XII.**

12 There being no just reason for delay, the Clerk of the Court is hereby
13 directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter
14 this Judgment.

15
16 DATED: 11/23/02

17 
18 HONORABLE VIRGINIA A. PHILLIPS
19 UNITED STATES DISTRICT JUDGE
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CERTIFICATE OF SERVICE

I, Magnolia M. Marcelo, am over the age of eighteen years, am not a party to this action, and am a citizen of the United States. My business address is 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California, 90036. On November 20, 2002, I caused to be served the **JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AGAINST JOSEPH SANFELLIPO** by causing to be mailed true and correct copies thereof in sealed envelopes, postage prepaid, addressed to:

James E. Gasper
249 S. Highway 101, #367
Solana Beach, CA 92075

Parker Stanbury, Esq.
444 S Flower, 19th Floor
Los Angeles, CA 90071
Attorney for Defendant James E. Gasper

Kimball R. Vance, Jr.
78365 Highway 11
La Quinta, CA 92353

Elihu M. Sigal
78224 Brookhaven Lane
Palm Desert, CA 92211

Joseph Sanfelliopo
292 Beverly Street
Laguna Niguel, CA 92651

Robb Evans, Receiver
Robb Evans & Associates
11450 Sheldon Street
Sun Valley, CA 91352-1121

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 20, 2002

Magnolia M. Marcelo
Magnolia M. Marcelo