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CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

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

Defendants.

Civil Action No.
EDCV 02-1229 VAP (SGLx)

**ORDER OF PRELIMINARY
INJUNCTION AGAINST CALIFORNIA
AUTOCARE CORPORATION AND
AUTOCARE AMERICORP AND
ORDERS: (1) CONTINUING FREEZE OF
ASSETS; (2) APPOINTING A PERMANENT
RECEIVER; (3) PROHIBITING THE
DESTRUCTION OF DOCUMENTS; AND
FOR ACCOUNTINGS**

This matter came to be heard upon the Court's Order to Show Cause Re Preliminary Injunction and Appointment of a Permanent Receiver, issued November 14, 2002, ("OSC"). The OSC is included in the Temporary Restraining Order And Orders: (1) Freezing Assets; (2) Appointing A Temporary Receiver; (3) Prohibiting The Destruction Of Documents; (4) Granting Expedited Discovery; (5) For Accountings; And Order To Show Cause Re Preliminary Injunction And Appointment Of A Permanent Receiver ("TRO") issued upon application of Plaintiff Securities and Exchange Commission ("Commission") on November 14, 2002.

Subsequent to the Court's issuance of the OSC, each of the individual defendants consented to entry of Judgments of permanent injunction prohibiting future violations of the statutory provisions and Rule set forth in the Commission's Complaint. The Court has entered those Judgments, rendering issuance of the previously requested preliminary injunction against the individual defendants unnecessary. The remaining aspects of the Court's OSC are unopposed by any defendant or creditor.

On November 22, the Temporary Receiver filed a Report Of Receiver's Activities November 14, 2002 Through November 19, 2002 ("Receiver's Report"). None of the individual defendants has, however, filed an accounting with the Court as required by the TRO, although, based in part on information provided by the receiver as to the funds received by defendant Elihu M. Sigal ("Sigal") from the entity defendants, the Commission and Sigal have entered into a Stipulation Between Plaintiff Securities And Exchange Commission And Defendant Elihu M. Sigal For Partial Relief

From Asset Freeze, which was lodged with the Court on November 20, 2002.

The Court, having considered the Commission's Complaint; the Application for Temporary Restraining Order; and the Memorandum of Points and Authorities and the Declaration Of David S. Brown and Exhibits thereto, and all other documents filed in support of such Application; all other evidence and argument presented regarding the Application; and all additional evidence presented in support of the OSC, including the Receiver's Report, finds that:

- A. This Court has jurisdiction over the parties to, and the subject matter of, this action.
- B. Good cause exists to believe that defendants California AutoCare Corporation ("CAC") and AutoCare Americorp ("AutoCare") and each of them, have engaged in, are engaging in, and are about to engage in transactions, acts, practices and courses of business that constitute violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77e(a), 77e(c) & 77q(a), and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.
- C. The Commission has demonstrated a probability of success on the merits in this action.
- D. Good cause exists to believe that defendants CAC and AutoCare will continue to engage in such violations to the immediate and irreparable loss and damage to investors and to the general public unless they are restrained and enjoined.

I.

IT IS HEREBY ORDERED that the Commission's application for a preliminary injunction against CAC and AutoCare and orders: (1) continuing the freeze of assets; (2) appointing a permanent receiver; (3) prohibiting the destruction of documents; and (4) for accountings, is **GRANTED**.

II.

IT IS FURTHER ORDERED that CAC, AutoCare, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are preliminarily restrained and enjoined from, directly or indirectly:

- A. making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell any security through the use or medium of any prospectus or otherwise, unless a registration statement is in effect as to such security;
- B. carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale, unless a registration statement is in effect as to such security; and
- C. making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise, any security, unless a registration statement has been filed with the Commission as to such security, or while a registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under Section 8 of the Securities Act, 15 U.S.C. § 77h;

in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) & 77e(c).

III.

IT IS FURTHER ORDERED that CAC, AutoCare, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are preliminarily restrained and enjoined from, directly or indirectly, in the offer or sale of any securities, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails:

- A. employing any device, scheme or artifice to defraud;
- B. obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they

were made, not misleading; or

C. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser;

in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

IV.

IT IS FURTHER ORDERED that CAC, AutoCare, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are preliminarily restrained and enjoined from, directly or indirectly, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

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

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

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

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

V.

IT IS FURTHER ORDERED that, except as otherwise ordered by this Court, defendants CAC and AutoCare and their officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and those persons in active concert or participation with any of them, who receive actual notice of this Order, by personal service or otherwise, and each of them, are preliminarily restrained and enjoined from, directly or indirectly, transferring, assigning, selling, hypothecating, changing, wasting, dissipating, converting, concealing, encumbering, or otherwise disposing of, in any manner, any funds, assets, securities, claims, or other real or personal property, wherever located, of defendants CAC and AutoCare and their subsidiaries or affiliates, owned by, controlled by, managed by or in the possession or custody of any of them.

VI.

IT IS FURTHER ORDERED that, except as otherwise ordered by this Court, the freeze placed on all monies and assets shall continue in full force and effect (with an allowance for necessary and reasonable living expenses to be granted only upon good cause shown by application to the Court with notice to and an opportunity for the Commission to be heard), pending further order by the Court, over all accounts at any bank, financial institution or brokerage firm, all certificates of deposit, and other funds or assets, held in the name of, for the benefit of, or over which account authority is held by CAC, AutoCare, Joseph Sanfellipo ("Sanfellipo"), James E. Gasper ("Gasper") and Kimball R. Vance, Jr. ("Vance"), including, but not limited to, the accounts set forth below:

<u>Bank Name</u>	<u>Account Name</u>	<u>Account No.</u>
Bank of America	California AutoCare Corp.	11827-00530
Bank of America	California Automotive Franchise Systems	24714-10579
Bank of America	International Professional	09851-05769
Bank of America	Joseph S. Sanfellipo	10397-09785
Bank of America	Joseph Sanfellipo & White Tiger Press	17451-02254
Bank of America	Jim Gasper & White Tiger Press	09853-04698
Bank of America	Kimball Vance Jr.	18246-03588

VII.

IT IS FURTHER ORDERED that Robb Evans is appointed as permanent receiver of CAC, AutoCare, and their subsidiaries and affiliates, with full powers of an equity receiver, including, but not limited to, full power over all funds, assets, collateral, premises (whether owned, leased, occupied, or otherwise controlled), choses in action, books, records, papers and other property belonging to, in the possession of, or under control of CAC, AutoCare, and any of their subsidiaries or affiliates, and that such receiver is immediately authorized, empowered and directed:

- A. to have access to and to collect and take custody, control, possession, and charge of all funds, assets, collateral, premises (whether owned, leased, occupied, or otherwise controlled), choses in action, books, records, papers and other real or personal property, wherever located, of CAC, AutoCare and their subsidiaries and affiliates, with full power to sue, foreclose, marshal, collect, receive, and take into possession all such property;
- B. to have control of, and to be added as the sole authorized signatory for, all accounts of CAC, AutoCare, and their subsidiaries and affiliates, including all such accounts over which CAC, AutoCare, or any of their officers, employees or agents, have signatory authority, at any bank, title company, escrow agent, financial institution or brokerage firm which has possession, custody or control of any assets or funds of CAC or AutoCare, or which maintains accounts over which CAC, AutoCare, and/or any of their officers, employees or agents have signatory authority;
- C. to conduct such investigation and discovery as may be necessary to locate and account for all of the assets of CAC, AutoCare, and their subsidiaries and affiliates and to engage and employ attorneys, accountants and other persons to assist in such investigation and discovery;
- D. to take such action as is necessary and appropriate to preserve and take control of and to prevent the dissipation, concealment, or disposition of any assets of CAC, AutoCare, and their subsidiaries and affiliates;
- E. to make a further accounting, as soon as practicable, to this Court and the Commission of the assets and financial condition of CAC and AutoCare, as well as the funds transferred from CAC, AutoCare, or any of their subsidiaries or affiliates to the individual defendants, and to file the accounting with the Court and serve copies thereof on all parties;
- F. to make such payments and disbursements from the funds and assets taken into custody, control, and possession or thereafter received by him, and to incur, or authorize the making of, such agreements as may be necessary and advisable in discharging his duties as receiver;
- G. to employ attorneys, accountants and others to investigate and, where appropriate, to institute, pursue, and prosecute all claims and causes of action of whatever kind and nature which may now or hereafter exist as a result of the activities of present or past employees or agents of CAC and AutoCare; and
- H. to have access to and monitor all mail of CAC and AutoCare in order to review such mail which he deems relates to the business of CAC and AutoCare and the discharging of his duties as receiver.

VIII.

IT IS FURTHER ORDERED that defendants CAC and AutoCare and their subsidiaries and affiliates, and their officers, agents, servants, employees and attorneys, and any other persons who are in custody, possession or control of any assets, collateral, books, records, papers, or other property of CAC and AutoCare, shall forthwith give access to and control of such property, including legal retainers, to the receiver.

IX.

IT IS FURTHER ORDERED that no officer, agent, servant, employee, or attorney of CAC, AutoCare or any of their subsidiaries or affiliates, shall take any action or purport to take any action, in the name of or on behalf of CAC or AutoCare, or any of their subsidiaries or affiliates, without the written consent of the receiver or order of this Court.

X.

IT IS FURTHER ORDERED that, except by leave of this Court, during the pendency of this receivership, all clients, investors, trust beneficiaries, note holders, creditors, claimants, lessors, and all other persons or entities seeking relief of any kind, in law or in equity, from CAC, AutoCare, or any of their subsidiaries, and all persons acting on behalf of any such investor, trust beneficiary, note holder, creditor, claimant, lessor, or other person, including sheriffs,

marshals, servants, agents, employees, and attorneys, are restrained and enjoined from, directly or indirectly, with respect to CAC, AutoCare and their subsidiaries:

- A. commencing, prosecuting, continuing or enforcing any suit or proceeding (other than the present action by the Commission) against CAC, AutoCare or their subsidiaries;
- B. using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property or property interests owned by or in the possession of CAC or AutoCare, or any of their subsidiaries, wherever situated; and
- C. doing any act or thing whatsoever to interfere with taking control, possession or management by the receiver appointed hereunder of the property and assets owned, controlled by or in the possession of CAC, AutoCare or any of their subsidiaries, or in any way to interfere with or harass the receiver or his attorneys, accountants, employees or agents, or to interfere in any manner with the discharge of the receiver's duties and responsibilities hereunder.

XI.

IT IS FURTHER ORDERED that defendants CAC, AutoCare, Sanfello, Gasper, Vance and Sigal, and their subsidiaries, affiliates, officers, agents, servants, employees and attorneys, shall cooperate with and assist the receiver and shall take no action, directly or indirectly, to hinder, obstruct, or otherwise interfere with the receiver or his attorneys, accountants, employees or agents, in the conduct of the receiver's duties or to interfere in any manner, directly or indirectly, with the custody, possession, management, or control by the receiver of the funds, assets, collateral, premises and choses in action described above.

XII.

IT IS FURTHER ORDERED that all applications for costs, fees and expenses for services rendered in connection with the receivership other than routine and necessary business expenses in conducting the receivership, such as salaries, rent and any and all other reasonable operating expenses, shall be made by application setting forth in reasonable detail the nature of the services and shall be heard by the Court.

XIII.

IT IS FURTHER ORDERED that no bond shall be required in connection with the appointment of the receiver. Except for an act of gross negligence, the receiver shall not be liable for any loss or damage incurred by any of the defendants, their officers, agents, servants, employees and attorneys or any other person, by reason of any act performed or omitted to be performed by the receiver in connection with the discharge of his duties and responsibilities.

XIV.

IT IS FURTHER ORDERED that representatives of the Commission are authorized to have continuing access to inspect or copy any or all of the corporate books and records and other documents of CAC, AutoCare and their subsidiaries and affiliates, and continuing access to inspect their funds, property, assets and collateral, wherever located.

XV.

IT IS FURTHER ORDERED that, except as otherwise ordered by this Court, defendants CAC, AutoCare, Sanfellipo, Gasper, Vance and Sigal, and their officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and those persons in active concert or participation with any of them, who receive actual notice of this Order, by personal service or otherwise, and each of them, are restrained and enjoined from, directly or indirectly: destroying, mutilating, concealing, transferring, altering, or otherwise disposing of, in any manner, any documents, which includes all books, records, computer programs, computer files, computer printouts, contracts, correspondence, memoranda, brochures, or any other documents of any kind in their possession, custody or control, however created, produced, or stored (manually, mechanically, electronically, or otherwise), pertaining in any manner to defendants CAC and/or AutoCare.

XVI.

IT IS FURTHER ORDERED that defendants Sanfellipo, Gasper and Vance each shall, within five days of the entry of this Order, prepare and deliver to the Commission a detailed and complete schedule of all of their personal assets, including all real and personal property exceeding \$5,000 in value, and all bank, securities, futures and other accounts identified by institution, branch address and account number, to the extent such accounting(s) have not been provided in accordance with paragraph XVII of the TRO. The accountings shall include a description of the source(s) of all such assets. Such accountings shall be filed with the Court and copies shall be delivered to the Commission's Pacific Regional Office located at 5670 Wilshire Boulevard, 11th Floor, Los Angeles, CA 90036. After completion of their accountings, defendants Sanfellipo, Gasper and Vance shall each produce to the Commission's Pacific Regional Office, at a time agreeable to the Commission, all books, records and other documents supporting or underlying their accountings.

XVII.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this action for the purpose of implementing and carrying out the terms of all orders and decrees which may be entered herein and to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

DATED: NOVEMBER 23, 2002

<signed >

HONORABLE VIRGINIA A. PHILLIPS
UNITED STATES DISTRICT JUDGE

Presented by:

<signed>

Karen Matteson
Attorney for Plaintiff
Securities and Exchange Commission
