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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 CHRISTOPHER BAITH**

Plaintiff Federal Trade Commission ("Commission") filed its  
Complaint alleging that Defendants Christopher Baith, Cosme  
Monarrez, Jr., and Sorabh Verma created and disseminated  
deceptive unsolicited commercial email, commonly known as spam,

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3 in violation of Section 5 of the Federal Trade Commission Act  
4 ("FTC Act"), 15 U.S.C. § 45.

5 Plaintiff Federal Trade Commission and Defendant Baith have  
6 agreed to entry of this proposed Stipulated Final Judgment And  
7 Order For Permanent Injunction as to Defendant Christopher Baith  
8 ("Order") to resolve all matters in dispute in this action.  
9

10  
11 **FINDINGS**

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

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

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

**DEFINITIONS**

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

A. "Defendant" means Christopher Baith, including but not

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limited to the use of aliases and names under which he currently does business or may do business in the future.

B. "Internet" means a worldwide system of linked computer networks that use a common protocol (TCP/IP) to deliver and receive information. The "Internet" includes, but is not limited to, the following forms of electronic communication: email, the World Wide Web, newsgroups, 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

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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.

**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

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information contained in the "subject" line of the email).

II.

DISGORGEMENT OF FUNDS

IT IS FURTHER ORDERED that

- A. Judgment is entered against Defendant in the amount of Ten Thousand Dollars (\$10,000.00).
- B. The judgment shall be partially satisfied by:
  - 1. Payment of Five Hundred Dollars and Eight Cents (\$500.08) within seven (7) business days of the date of entry of this Order;
  - 2. Payment of One Thousand Nine Hundred Ninety-Nine Dollars and Ninety-Two Cents (\$1,999.92) in twelve (12) equal installments of One Hundred Sixty-Six Dollars and Sixty-Six Cents (\$166.66) beginning thirty (30) days after the date this Order is entered by the Court and continuing every thirty (30) days thereafter, provided, however, that Defendant, without penalty, may pay the balance due, make more frequent payments, make advance payments, or pay larger payments than scheduled; and

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3. Payment to the Commission should be made by either  
1) wire transfer to the account of the Federal  
Trade Commission, Treasury ABA number: 021030004,  
ALC number 29000001; Reference Information: FTC  
v. Christopher Baith, et al.; Matter Number  
0223291 or by 2) cashier's check or certified  
check made payable to the Federal Trade Commission  
and mailed to Associate Director of the Division  
of Marketing Practices, Federal Trade Commission,  
600 Pennsylvania Avenue, N.W., Room H-238,  
Washington, D.C. 20580; Reference Information:  
FTC v. Christopher Baith, et al.

B. Time is of the essence for the payments described  
above. If Defendant fails to make any of the payments  
on the due date, the Commission shall notify Defendant  
by mail at the address provided by the Defendant  
pursuant to Section VI(A)(1) and (B)(1) of this Order  
and if payment is not received in five (5) business  
days, without further notice or proceeding, judgment  
shall be entered against Defendant in the amount of Ten  
Thousand Dollars (\$10,000.00). Defendant expressly  
waives the right to contest the amount of the judgment,

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and this judgment does not constitute a fine or a penalty.

- C. Upon receipt of all of the payments required by Subsection A of this Section, the remainder of the judgment against Defendant shall be suspended.
- D. All monies paid pursuant to this Section shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund, and payment of any Court-approved fees. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendant's practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Department of Treasury as disgorgement. Defendant shall have no right to challenge the Commission's choice of remedies under this Section.



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III.

RIGHT TO REOPEN

IT IS FURTHER ORDERED that

- A. The Commission's agreement to this Order is expressly premised upon the financial condition of Defendant, as represented in the sworn financial statements provided to the Commission by Defendant, dated January 19, 2003, which include material information upon which the Commission relied in negotiating and consenting to this Order.
  
- B. If, upon motion of the Commission, the Court finds that Defendant made a misrepresentation or a material omission concerning his financial condition, then the Court shall enter a modified judgment reversing any suspension and holding Defendant liable to the Commission for Ten Thousand Dollars (\$10,000.00), which the parties stipulate is the disgorgement amount. This amount, less the sum of payments previously made pursuant to this Order, shall become immediately due and payable by Defendant, together with interest computed at a rate prescribed under 28 U.S.C. § 1961, as amended.

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C. Defendant agrees that the facts alleged in the complaint filed in this action shall be taken as true in any subsequent litigation filed by the Commission to enforce its rights pursuant to this Order including, but not limited to, a nondischargability complaint filed in any bankruptcy proceeding.

D. The proceedings instituted under this Section are in addition to, not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the Commission may initiate to enforce this Order.

**IV.**

**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 directly or indirectly manages or controls the business, and

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

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

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

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

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

5 V.

6 COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE

7 IT IS FURTHER ORDERED that the Commission is authorized to  
8 monitor Defendant's compliance with this Order by all lawful  
9 means, including but not limited to the following means:  
10

11 A. The Commission is authorized, without further leave of  
12 court, to obtain discovery from any person in the  
13 manner provided by Chapter V of the Federal Rules of  
14 Civil Procedure, Fed. R. Civ. P. 26 - 37, including the  
15 use of compulsory process pursuant to Fed. R. Civ. P.  
16 45, for the purpose of monitoring and investigating  
17 Defendant's compliance with any provision of this  
18 Order.  
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20 B. The Commission is authorized to use representatives  
21 posing as consumers and suppliers of Defendant,  
22 Defendant's employees, or any other entity managed or  
23 controlled in whole or in part by Defendant, without  
24 the necessity of identification or prior notice.

25 C. Nothing in this Order shall limit the Commission's  
26 lawful use of compulsory process, pursuant to Sections  
27 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to  
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3 investigate whether Defendant has violated any  
4 provision of this Order or Section 5 of the FTC Act, 15  
5 U.S.C. § 45.

6 **VI.**

7 **COMPLIANCE REPORTING BY DEFENDANT**

8 **IT IS FURTHER ORDERED** that, in order that compliance with  
9 the provisions of this Order may be monitored:  
10

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

14 1. Any changes in Defendant's residence, mailing  
15 addresses, and telephone numbers, within ten (10)  
16 days of the date of such change;

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

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

1. Defendant's then current residential address and telephone number;
2. Defendant's then current employment, business addresses and telephone numbers, a description of the business activities of each such employer, and Defendant's title and responsibilities for each employer;
3. A copy of each acknowledgment of receipt of this Order obtained by Defendant pursuant to Section VII of this Order; and
4. A statement describing the manner in which

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Defendant has complied and is complying with the  
a. prohibitions contained in Section I, and  
b. disgorgement as required by Section II.

C. Upon written request by a representative of the Commission, Defendant shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days notice with respect to any conduct subject to this Order.

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

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

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

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

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

**VII.**

**DISTRIBUTION OF ORDER BY DEFENDANT**

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

- A. Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each officer or director, each individual serving in a management capacity, all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, immediately upon employing or retaining any such persons, for any business where
  - 1. Defendant is the majority owner of the business or directly or indirectly manages or controls the business, and
  - 2. the business is engaged in the advertising, promotion, offering for sale, sale, or delivery of, or billing or collecting for, any videotext service, or assisting others engaged in these



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activities.

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

**VIII.**

**ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

**IT IS FURTHER ORDERED** that, within five (5) business days after receipt by Defendant of this Order as entered by the Court, Defendant shall submit to the Commission a truthful sworn statement, in the form shown on Appendix A, that shall acknowledge receipt of this Order.

**IX.**

**RECORD KEEPING PROVISIONS**

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, in connection with the advertising, promotion, offering for sale, sale, or delivery of, or billing or collecting for, any videotext service, Defendant and his agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal

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3 service or otherwise, are hereby restrained and enjoined from  
4 failing to create and retain the following records:

- 5       A. Accounting records that reflect the cost of goods or  
6            services sold, revenues generated, and the disbursement  
7            of such revenues;
- 8       B. Personnel records accurately reflecting: the name,  
9            address, and telephone number of each person employed  
10           in any capacity by such business, including as an  
11           independent contractor; that person's job title or  
12           position; the date upon which the person commenced  
13           work; and the date and reason for the person's  
14           termination, if applicable;
- 15       C. Customer files containing the names, addresses, phone  
16           numbers, dollar amounts paid, quantity of items or  
17           services purchased, and description of items or  
18           services purchased, to the extent such information is  
19           obtained in the ordinary course of business;
- 20       D. Complaints and refund requests (whether received  
21           directly, indirectly, or through any third party) and  
22           any responses to those complaints or requests; and
- 23       E. Copies of all sales scripts, training materials,  
24           advertisements, Websites, Webpages, or other marketing  
25           materials.  
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**X.**

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

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

**XI.**

**THE ORDER CONSTITUTES FINAL JUDGEMENT**

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

**XII.**

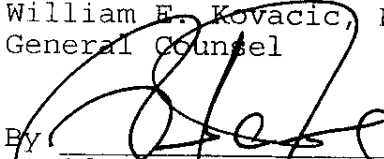
**COURT'S JURISDICTION**

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

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3 **SO STIPULATED**

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5 Dated: 18 October 2003

William E. Kovacic, Esq.  
General Counsel

6  
7 By:   
8 David C. Fix, Esq.  
9 Renard C. Francois, Esq.  
10 Attorneys for Plaintiff  
11 Federal Trade Commission  
12 600 Pennsylvania Avenue, N.W.  
13 Washington, D.C. 20580  
14 Telephone: (202) 326-3298 (Fix)  
15 Telephone: (202) 326-2251 (Francois)  
16 Facsimile: (202) 326-3395

17  
18 Dated: March 16, 2003

Christopher Baith

19 By: CRB  
20 Christopher Baith, Pro Se

21  
22 There being no just cause for delay, this proposed  
23 Order is hereby entered this 25<sup>th</sup> day of November, 2003.

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25 **IT IS SO ORDERED.**

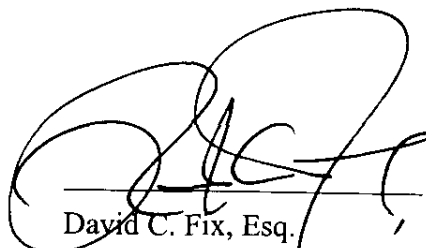
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28 United States District Judge  
District of Nevada

## 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 Christopher Baith

was served, via Federal Express, on Christopher Baith, 236 S. Norwinden Drive, Springfield, Pennsylvania 19064 on Thursday, October 16th, 2003.

A handwritten signature in black ink, appearing to be "D.C. Fix", written over a horizontal line.

David C. Fix, Esq.

Renard C. François, Esq.