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

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

Priority ✓
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Closed ✓
JS-5/JS-6 ✓
JS-2/JS-3 ✓
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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 KIMBALL R. VANCE, JR.**

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

20
21 Plaintiff Securities and Exchange Commission ("Commission"), having
22 filed and served upon Defendant Kimball R. Vance, Jr. ("Vance") a Summons and
23 Complaint in this action; Vance 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

INDEXED

02 NOV 20 PM 3:4
CLERK OF COURT
EASTERN DIVISION

1 Permanent Injunction And Other Relief Against Kimball R. Vance, Jr.
2 (“Judgment”) without admitting or denying the allegations in the Complaint,
3 except as specifically set forth in the Consent Of Kimball R. Vance To Entry Of
4 Final Judgment Of Permanent Injunction And Other Relief (“Consent”); no notice
5 of 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 Vance 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, 15 U.S.C. § 77h;

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

3 **II.**

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Vance
5 and his agents, servants, employees and attorneys, and those persons in active
6 concert or participation with them who receive actual notice of this Judgment by
7 personal service or otherwise, are permanently restrained and enjoined from
8 making use of the mails or any means or instrumentality of interstate commerce to
9 effect any transactions in, or to induce or attempt to induce the purchase or sale of,
10 any security without being registered as a broker or dealer pursuant to Section
11 15(b) of the Exchange Act, 15 U.S.C. § 78o(b), in violation of Section 15(a)(1) of
12 the Exchange Act, 15 U.S.C. § 78o(a)(1).

13 **III.**

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Vance
15 shall disgorge all income and/or funds ultimately received by him directly or
16 indirectly, in any form, from California Autocare Corporation ("CAC") or
17 AutoCare Americorp ("AutoCare") or any of their officers, agents, servants,
18 employees or affiliates, including, but not limited to, income and/or funds received
19 while he was employed by NetStreet Financial, Inc., resulting from his
20 participation in the offer and sale of promissory notes payable by CAC and/or
21 AutoCare and the offer and sale of common stock in CAC and/or AutoCare. Such
22 income and/or funds to be disgorged include without limitation, checks, cash,
23 securities and any assets purchased by Vance with the proceeds from the sales of
24 such securities, together with prejudgment interest. Prejudgment interest shall be
25 calculated pursuant to 28 U.S.C. § 1961. Prejudgment interest shall be calculated
26 from the date of each receipt of income and/or funds by Vance to the date the
27 judgment fixing the amount of disgorgement is entered, ignoring partial months,
28 and shall be compounded quarterly. Vance shall not raise as a defense that he is

1 not liable for the payment of such disgorgement or for civil penalties, if any,
2 because he did not violate one or more of the provisions of the Securities Act and
3 Exchange Act set forth in this Judgment. Accordingly, for the purposes of
4 determining the amount of disgorgement and whether to impose a penalty and, if
5 so, in what amount, the facts alleged in the Commission's Complaint are accepted
6 as and deemed true by the Court. Vance may therefore only offer proof as to the
7 actual amount(s) of funds that he ultimately received.

8 **IV.**

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

13 **V.**

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

18 **VI.**

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

28 *

1 **VII.**

2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, except
3 as otherwise ordered by this Court, Vance and his agents, servants, employees, and
4 attorneys, and those persons in active concert or participation with them, who
5 receive actual notice of this Judgment, by personal service or otherwise, and each
6 of them, are restrained and enjoined from, directly or indirectly:

- 7 A. transferring, assigning, selling, hypothecating, changing, wasting,
8 dissipating, converting, concealing, encumbering, or otherwise
9 disposing of, in any manner, any funds, assets, securities, claims, or
10 other real or personal property, wherever located, of CAC, AutoCare,
11 or their subsidiaries or affiliates, owned by, controlled by, managed
12 by or in the possession or custody of any of them.
- 13 B. transferring, assigning, selling, hypothecating, encumbering, or
14 otherwise disposing of any securities, including, but not limited to,
15 any stock, promissory notes or other securities of CAC or AutoCare
16 or any of their subsidiaries or affiliates.

17 **VIII.**

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

25 **IX.**

26 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED
27 that during the pendency of this action against any defendant, Vance shall remain
28 subject to the discovery provisions of the Federal Rules of Civil Procedure which

1 apply to parties, and, in addition, that Vance agrees and undertakes, without
2 service of a subpoena, to appear for his deposition or to testify as a witness at any
3 trial of this action or at any related proceeding. Failure to comply with the
4 foregoing will subject Vance to the remedies and sanctions set forth in Rule 37 of
5 the Federal Rules of Civil Procedure and all other available remedies.


6 X.

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

14 XI.

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

18
19 DATED: 11/23/02

20 
21 _____
22 HONORABLE VIRGINIA A. PHILLIPS
23 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 KIMBALL R. VANCE, JR.** 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 Sanfellipo
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