

1 JOHN D. JACOBS
(Calif. Bar No. 134154)
2 BARBARA M. K. CHURCH

FILED
02 APR 22

1 Plaintiff Commission and Defendants Phim and Caldwell have
2 agreed to entry of this Stipulated Final Judgment and Order for
3 Permanent Injunction ("Order") by the Court to resolve all matters
4 in dispute as to Defendants Phim and Caldwell in this action.
5 Defendants Phim and Caldwell have consented to entry of this Order

1 4. The Commission has the authority under Sections 13(b)
2 and 19 of the FTC Act, 15 U.S.C. §§ 52(b) and 57b, to seek the

[REDACTED]

1 C. The term "Defendants" refers to Defendants Phim and
2 Caldwell and the agents, servants, employees, and attorneys of
3 either of them, and all persons or entities directly or indirectly
4 under the control of either of them, and all other persons or
5 entities in active concert or participation with either of them
6 who receive actual notice of this Order by personal service or

1 entities directly or indirectly under the control of either of
2 them and all other persons or entities in active contact

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 will be able to ship any ordered merchandise to the buyer within
2 the time stated in the solicitation or if no time has been

1 this Order, transfer to the Commission Ten Thousand Dollars
2 (\$10,000) by wire transfer, to an account designated by counsel
3 for the Commission, or by certified check. *Provided further that,*
4 in the event the Commission files a satisfaction of judgment upon
5 payment of \$10,000, said satisfaction shall be subject to
6 revocation as set forth in Section V of this Order.

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IV

1 fees, salaries, and expenses incurred thereby in carrying out said
2 tasks from the funds received pursuant to this Order.

3 V.

4 **RIGHT TO REOPEN AND TERMINATE SUSPENSION**

5 **IT IS FURTHER ORDERED** that the Commission's agreement to this
6 Order is expressly premised upon the truthfulness, accuracy and
7 completeness of the eighteen-page financial statement dated
8 December 6, 2001 that Defendant Phim has submitted to the
9 Commission and the eighteen-page financial statement dated
10 December 6, 2001, as well as all attachments, that Defendant
11 Caldwell has submitted to the Commission. Said financial
12 statements contain material information upon which the FTC has
13 relied in negotiating and agreeing to the terms of this Order.
14 If, upon motion by the Commission to the Court, the Court finds
15 that Defendant Phim or Defendant Caldwell failed to disclose any
16 material asset with a value exceeding \$1,000, or materially
17 misrepresented the value of any asset, or made any other material
18 misrepresentation in or omission from his financial statement, any
19 satisfaction of judgment that the Commission has filed as to that
20 defendant will be revoked and the entire judgment amount of
21 \$90,000, less any amounts any defendant has previously paid to the

22 ~~Commission will be immediately due and payable~~

1 VI.

2 ACKNOWLEDGMENT OF RECEIPT

3 IT IS FURTHER ORDERED that, within five (5) business days
4 after entry of this Order, Defendants Phim and Caldwell shall each
5 submit to the Commission a truthful sworn and notarized statement,
6 in the form shown on Appendix 1, that shall acknowledge receipt of
7 this Order as approved by the Court.

8 VII.

9 RECORD KEEPING PROVISIONS

10 IT IS FURTHER ORDERED that, for a period of five (5) years
11 from the date of entry of this Order, Defendants Phim and
12 Caldwell, in connection with any and every business entity of
13 which the defendant is a majority owner ~~or which he otherwise~~

Name	Address	City	State	Zip
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

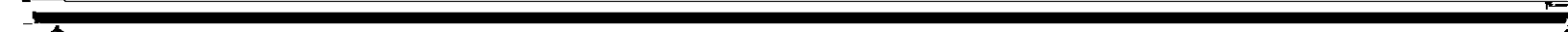
1 defendant is affiliated with or employed by, a statement of the
2 nature of the business, and a statement of the defendant's duties
3 and responsibilities in connection with the business or
4 employment;

5 B. Defendants Phim and Caldwell shall, for a period of four
6 (4) years from the date of entry of this Order, notify the
7 Commission of any proposed change in the structure of any business
8 entity (including Defendant Auctionsaver, LLC) that is owned or
9 controlled by the defendant, such as creation, incorporation,
10 dissolution, assignment, sale, merger, creation or dissolution of
11 subsidiaries, proposed filing of a bankruptcy petition, or change
12 in the company name or address, or any other change that may
13 affect compliance obligations arising out of this Order, thirty
14 (30) days prior to the effective date of any proposed change;

15 C. One hundred eighty (180) days after the date of entry of
16 this Order. Defendants Phim and Caldwell shall each provide a

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3. A copy of each acknowledgment of receipt of this Order obtained by defendant pursuant to Paragraph XII of this Order;
4. A statement describing the manner in which the defendant has complied and is complying with



1 individually or jointly, own a majority interest in the business
2 or directly or indirectly manage or control the business. In
3 providing such access. Defendants Phim and Caldwell shall permit

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X.

FTC'S AUTHORITY TO MONITOR COMPLIANCE

IT IS FURTHER ORDERED that the Commission is authorized to

XI.

ORDER DISTRIBUTION

IT IS FURTHER ORDERED that, for a period of four (4) years from the date of entry of this Order, Defendant Phim and Defendant Caldwell shall:

A. Immediately provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of the same from, each officer, director and managing agent of any company or other business entity which is directly or indirectly owned, operated or controlled by the defendant and which (i) is engaged in the advertising, marketing, sale or offering for sale of any good or service via the Internet, or (ii) solicits orders for the sale of

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ASSISTANT REGIONAL DIRECTOR
Federal Trade Commission
Western Region-Los Angeles

2

XVI.

ENTRY BY CLERK

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Order.

SO STIPULATED:

FEDERAL TRADE COMMISSION

Dated: April 19, 2002nd

John D. Jacobs
John D. Jacobs
Barbara Y.K. Chun
Attorneys for Plaintiff

Dated: Dec 19, 2001, 2001

Richard Phim
Richard Phim
Defendant

Dated: DEC 19, 2001, 2001

Carman Lee Caldwell
Carman Lee Caldwell
Defendant

APPROVED AS TO FORM:

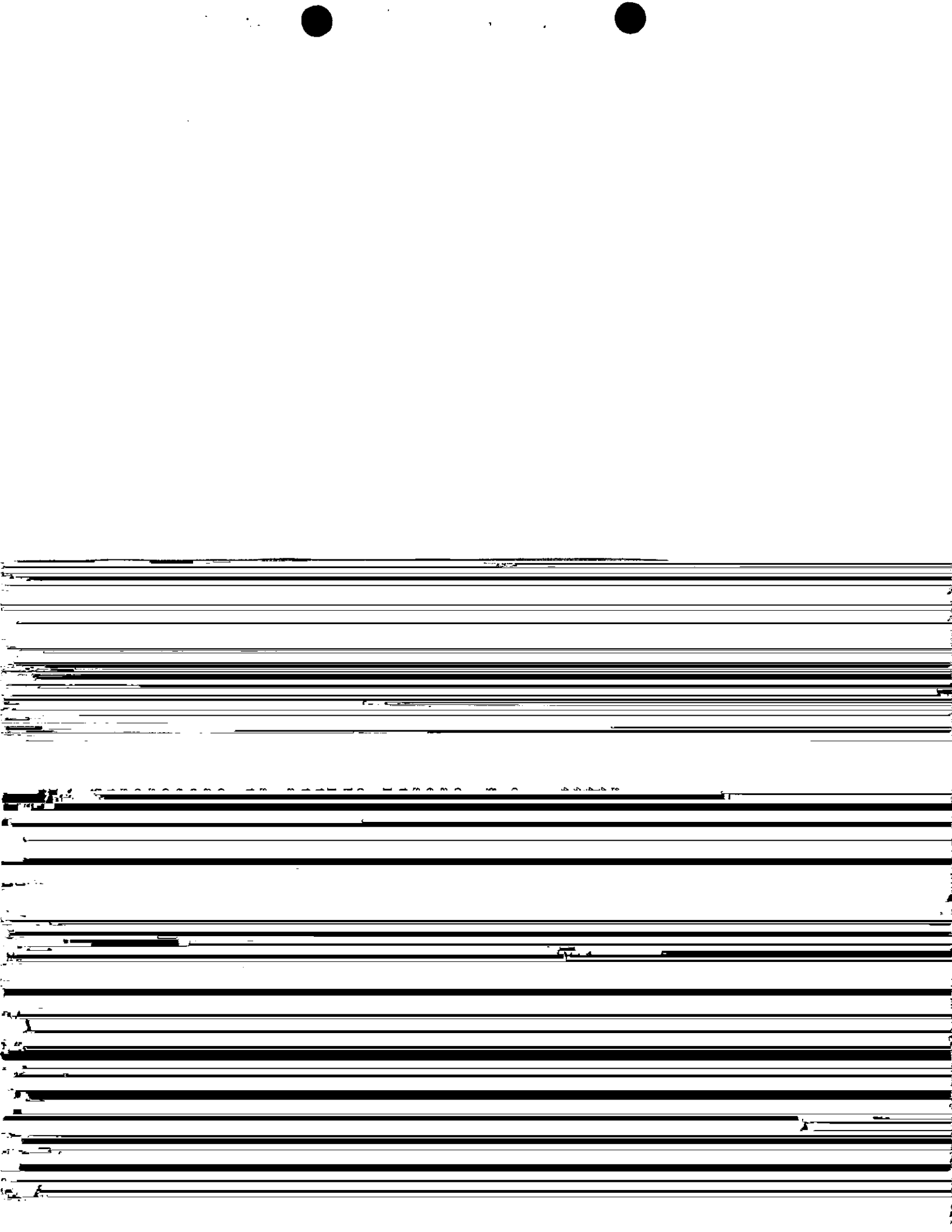
Dated: 12/19/01, 2001

Ned Lynch
Ned Lynch
Attorney for Defendants Phim
and Caldwell

IT IS SO ORDERED.

Dated: April 22, 2002

James Peng
Judge of the District Court



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