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1 U.S.C. § 53(b). Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, the Clerk
2 of Court entered a default against defendant on May 14, 2003. The Commission now has
3 moved this Court for entry of an Order for Judgment by Default and Permanent
4 Injunction (“Order”) against defendant, pursuant to Rule 55(b)(2) of the Federal Rules of
5 Civil Procedure. Having considered the memorandum and exhibits filed in support of this
6 motion, and all other pleadings and files in this action, and now being fully advised in the
7 premises, the Court finds:

8 1. This is an action by the Commission instituted under Sections 5 and 13(b)
9 of the FTC Act, 15 U.S.C. §§ 45 and 53(b), and the Commission’s Mail or Telephone
10 Order Trade Regulation Rule, 16 C.F.R., Part 435. The amended complaint seeks both
11 permanent injunctive relief and consumer redress for alleged unfair or deceptive acts or
12 practices by defendant in connection with the offering for sale and sale of computers,
13 computer-related equipment and other merchandise via Internet auction.

14 2. The Commission has the authority under Section 13(b) of the FTC Act to
15 seek the relief it has requested.

16 3. This Court has jurisdiction over the subject matter of this case and has
17 jurisdiction over defendant. Venue in the District of Nevada is proper, and the complaint
18 states a claim upon which relief may be granted against defendant under Sections 5 and
19 13(b) of the FTC Act and under the Mail Order Rule.

20 4. The activities of defendant are in or affecting commerce, as defined in 15
21 U.S.C. § 44.

22 5. The Complaint was filed on April 15, 2003. The summons and complaint
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1 1940.

2 7. It is proper in this case to issue a permanent injunction prohibiting
3 defendant from making misrepresentations in connection with the sale of products or
4 services by Internet auction or Internet sale, to comply with the Mail Order Rule, and to
5 provide for monitoring by the Commission of defendant's compliance with such a
6 permanent injunction.

7 8. It is proper in this case to enter a monetary judgment against defendant to
8 redress consumer injury which resulted from violations of the FTC Act by defendant.
9 The proper measure of consumer injury is the amount of money paid to defendant by
10 consumers for goods which they did not receive. Redress to consumers is warranted
11 because defendant's misrepresentations were of a type generally relied upon by
12 consumers.

13 9. This action and the relief awarded herein are in addition to, and not in lieu
14 of, other remedies as may be provided by law, including both civil and criminal remedies.

15 10. Entry of this Order is in the public interest.

16 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

17 **ORDER**

1 redress to consumers is wholly or partially impracticable or funds remain
2 after redress is completed, the Commission may apply any remaining funds
3 for such other equitable relief (including consumer information remedies) as
4 it determines to be reasonably related to the defendant's practices alleged in
5 the Complaint. Any funds not used for such equitable relief shall be
6 deposited to the Treasury as disgorgement. Defendant shall have no right to
7 challenge the Commission's choice of remedies under this Paragraph.

8 B. Defendant is hereby required, in accordance with 31 U.S.C. § 7701, to
9 furnish to the Commission his Social Security numbers and/or taxpayer
10 identification numbers, which shall be used for purposes of collecting and
11 reporting on any delinquent amount arising out of this Order;

12 C. The facts as alleged in the Complaint shall be taken as true in the event of
13 any subsequent litigation to enforce this Order or to collect amounts due
14 pursuant to this Order, including but not limited to a nondischargeability
15 complaint in any bankruptcy proceeding.

16 D. The judgment entered pursuant to this Section III is equitable monetary
17 relief, solely remedial in nature, and not a fine, penalty, punitive assessment
18 or forfeiture.

19 IV.

20 COMPLIANCE MONITORING

21 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and
22 investigating compliance with any provision of this Order,

23 A. Within ten (10) days of receipt of written notice from a representative of the
24 Commission, defendant shall submit written reports, sworn to under penalty
25 of perjury; produce documents for inspection and copying; appear for
26 deposition; and/or provide entry during normal business hours to any
27 business location in his possession or direct or indirect control to inspect the
28 business operation.

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1 notice shall include the name and address of each business that
2 defendant is affiliated with, employed by, or performs services for; a
3 statement of the nature of the business; and a statement of
4 defendant's duties and responsibilities in connection with the
5 business;

6 3. Any changes in defendant's name or use of any aliases or fictitious
7 names.

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

13 1. Any changes required to be reported pursuant to subparagraph (A)
14 above; and

15 2. A copy of each acknowledgment of receipt of this Order obtained by
16 any defendant pursuant to Section VII.

17 C. For the purposes of this Order, defendant shall, unless otherwise directed by
18 the Commission's authorized representatives, mail all written notifications
19 to the Commission to:

20 Regional Director, Western Region
21 Federal Trade Commission
22 901 Market Street, Suite 570
23 San Francisco, CA 94103-1768
24 Re: FTC v. Eric Stetzel. CV-S-03-0396-KJD (LRL)

25 D. For purposes of the compliance reporting required by this Section, the
26 Commission is authorized to communicate directly with defendant.

27 VI.

28 **RECORD KEEPING PROVISIONS**

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of

1 entry of this Order, in connection with any business engaged in the sale of goods or
2 services operated by defendant, or where defendant is a majority owner of the business or
3 directly or indirectly manages or controls a business engaged in the sale of goods or
4 services, defendant and his officers, agents, directors, employees, salespersons,
5 independent contractors, subsidiaries, affiliates, successors, assigns, and all other persons
6 or entities in active concert or participation with him who receive actual notice of this
7 Order by personal service or otherwise, whether acting directly or through any person,
8 corporation, affiliate, division, agent, employee, consultant, independent contractor, or
9 other device, are hereby restrained and enjoined from failing to create and retain the
10 following records:

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

VII.

DISTRIBUTION OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED

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1 matter for purposes of construction, modification and enforcement of this Order.

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3 **IT IS SO ORDERED.**

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The Honorable Kent J. Dawson
United States District Judge

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Dated: _____, 2003

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