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10 Attorneys for Plaintiff
11 Federal Trade Commission

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 FEDERAL TRADE COMMISSION,

15 Plaintiff,

16 v.

17 COMMERCE PLANET, INC., a
18 corporation,

19 and

20 MICHAEL HILL, CHARLES
21 GUGLIUZZA, and
AARON GRAVITZ, individually and as
22 officers of COMMERCE PLANET, INC.,

23 Defendants.

Case No. **SACV09-01324 CJC (RNBx)**

**COMPLAINT FOR
PERMANENT INJUNCTION
AND OTHER EQUITABLE
RELIEF**

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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25 1. Plaintiff, Federal Trade Commission ("FTC") brings this action under
26 Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b), to secure a
27 permanent injunction, rescission of contracts and restitution, disgorgement of ill-
28

1 gotten gains, and other equitable relief against Defendants for engaging in unfair
2 or deceptive acts or practices in violation of Sections 5(a) of the FTC Act, 15
3 U.S.C. §§ 45(a).

4 **JURISDICTION AND VENUE**

5 2. This Court has subject matter jurisdiction over the FTC's claims
6 pursuant to 15 U.S.C. §§ 45(a) and 53(b) and 28 U.S.C. §§ 1331, 1337(a) and
7 1345.

8 3. Venue in the Central District of California is proper under 15 U.S.C.
9 § 53(b) and 28 U.S.C. § 1391(b) and (c).

10 **PLAINTIFF**

11 4. The FTC is an independent agency of the United States Government
12 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the
13 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices
14 in or affecting commerce.

15 5. The FTC may initiate federal district court proceedings, through its
16 own attorneys, to enjoin violations of the FTC Act and to secure such other
17 equitable relief, including rescission or reformation of contracts, restitution, and
18 disgorgement of ill-gotten gains, as may be appropriate in each case. 15 U.S.C. §§
19 53(b), 56(a)(2)(A).

20 **DEFENDANTS**

21 6. Commerce Planet, Inc., is a Utah corporation with its headquarters
22 and principal place of business, at all times material to this complaint, at 30 South
23 La Patera Lane, Goleta, California. Commerce Planet conducted business, *inter*
24 *alia*, as Online Supplier and Consumer Loyalty Group until January 2009.

25 7. Consumer Loyalty Group LLC is a California limited liability
26 company with its headquarters and principal place of business, at all times material
27 to this complaint, at 30 South La Patera Lane, Goleta, California. Consumer
28

1 Loyalty Group is a wholly owned subsidiary of Commerce Planet.

2 8. Legacy Media LLC is a California limited liability company with its
3 headquarters and principal place of business, at all times material to this
4 complaint, at 30 South La Patera Lane, Goleta, California. Legacy Media is a
5 wholly owned subsidiary of Commerce Planet.

6 9. For purposes of this Complaint, "Commerce Planet" means
7 Commerce Planet, Inc, also doing business as Online Supplier, and its subsidiaries,
8 specifically including Consumer Loyalty Group and Legacy Media.

9 10. Michael Hill was an officer and director of Commerce Planet, Inc.
10 As CEO and a director of Commerce Planet, he participated in and had the
11 authority to control the acts and practices of Commerce Planet alleged herein and
12 knew or should have known that the acts and practices alleged herein were unfair
13 or deceptive. Mr. Hill resides in Santa Barbara County, California.

14 11. Aaron Gravitz was an officer of Commerce Planet's subsidiary
15 Legacy Media LLC. As president of Legacy Media, he participated in and had the
16 authority to control the acts and practices of Commerce Planet alleged herein and
17 knew or should have known that the acts and practices alleged herein were unfair
18 or deceptive. Mr. Gravitz resides in Santa Barbara County, California.

19 12. Charles Gugliuzza was an officer and director of Commerce Planet.
20 As president and a director of Commerce Planet, he participated in and had the
21 authority to control the acts and practices of Commerce Planet alleged herein and
22 knew or should have known that the acts and practices alleged herein were unfair
23 or deceptive. Mr. Gugliuzza resides in Orange County, California.

24 **COMMERCE**

25
26 13. At all times material to this Complaint, Defendants have maintained a
27 substantial course of trade in or affecting commerce, as "commerce" is defined in
28 Section 4 of the FTC Act, 15 U.S.C. § 44.

1 email offers from us & trusted third-party partners.

2 Consumers were not required to click on the Terms of Membership link in order to
3 continue with the transaction, nor were they required to indicate that they had read
4 the Terms of Membership.

5 17. If consumers clicked on the Terms of Membership link, they were
6 taken to a separate page, in the general form of Exhibit 3, that contained a
7 document entitled "Online Supplier Terms and Conditions," which included the
8 following language:

9 By signing up for our free trial offer, you agree to pay the shipping and
10 handling fee described in the offer. These charges will be immediately
11 billed to the credit card or debit card you provided us.

12 Further, by signing up for this free trial offer, you will automatically be
13 registered for a free 7-day trial membership in OnlineSupplier.com. This
14 membership allows you to buy thousands of name brand products at up to
15 50% off and your very own webstore. If you do not contact our customer
16 service to cancel your OnlineSupplier.com membership within 7 days, you
17 will automatically be charged a monthly membership fee of \$59.95, and you
18 will be charged this monthly fee every 30 days thereafter until you cancel
19 your membership. We will bill the credit card or checking/savings account
20 you provided to us at sign-up for the free trial offer.

21
22 18. Although Exhibit 2, page 7, contained language to indicate that the
23 transaction "involves a negative option" and that consumers "may be liable for
24 payment of future goods and services . . . for \$59.95 per month . . .," in most
25 standard screen configurations that language appeared below the bottom of the
26 screen. *See* Exhibit 2, page 7. Because the disclosure language appeared below
27 the bottom of the screen, it was possible for consumers to complete the entire
28 transaction without ever having seen it. As a consequence, consumers may not,

1 and in a substantial number of instances did not, understand that they had been
2 enrolled in a negative option continuity plan, that is, an agreement according to
3 which consumers will be billed monthly for services, whether they used those
4 services or not, unless they affirmatively sought to discontinue the plan.

5 19. In numerous instances, consumers first became aware that they had
6 been enrolled in a negative option continuity plan when they received a credit card
7 bill with a charge for membership in Commerce Planet's plan. Many consumers
8 called the Online Supplier customer service telephone number or contacted Online
9 Supplier by email to try to cancel and obtain refunds. Most had difficulty in doing
10 so. For example, consumers frequently had difficulty reaching customer service
11 representatives. Consumers frequently were told there were no refunds.
12 Consumers frequently had to call multiple times to cancel.

13 In many instances, consumers were able to cancel only after threatening to
14 contact an attorney, the Better Business Bureau, or government authorities. In
15 numerous instances, consumers were able to stop the charges only by contacting
16 their credit card companies to reverse charges or by cancelling their credit cards.
17 In some instances, it took consumers several months to identify the source of the
18 charges and to extricate themselves from Commerce
19 Planet's plan. As a result, numerous consumers paid unauthorized charges of up
20 to several hundred dollars.

21 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

22 20. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or
23 deceptive acts or practices in or affecting commerce. As set forth below,
24 Commerce Planet engaged in unfair and deceptive practices in connection with the
25 marketing of its negative option plan.
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COUNT 1 – False Representations

21. In numerous instances in connection with the marketing of its negative option plan, Commerce Planet represented, directly or by implication, that consumers could obtain an “Online Auction Starter Kit” for free or for the payment of a nominal shipping and handling fee.

22. Commerce Planet failed to disclose, or to disclose adequately, the material terms and conditions of the offer, including, but not limited to the fact that:

- a. Commerce Planet would automatically enroll consumers in a continuity program for which consumers must affirmatively cancel to avoid additional charges;
- b. Commerce Planet would use consumers’ credit card information to charge them periodically for the continuity program membership;
- c. The costs associated with the continuity program;
- d. When consumers must cancel to avoid further charges; and
- e. The means consumers must use to cancel.

23. In light of the representation set forth in Paragraph 21, the failure of Commerce Planet to disclose, or to disclose adequately, this material information was a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT 2 – Unfair Practices

24. In numerous instances in connection with the marketing of its negative option plan, Commerce Planet assessed monthly charges against consumers’ credit cards without obtaining the express, informed consent of the consumers to assess such charges.

1 25. Commerce Planet's practice of assessing monthly charges against
2 consumers' credit cards without obtaining the express, informed consent of the
3 consumers caused or was likely to cause substantial injury to consumers that was
4 not reasonably avoidable by consumers themselves and was not outweighed by
5 countervailing benefits to consumers or competition.

6 26. Therefore, Commerce Planet's practice as alleged in paragraph 23
7 was unfair in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

8 **CONSUMER INJURY**

9 27. The violations of Section 5 of the FTC Act as set forth above have
10 caused substantial injury to consumers. Absent injunctive relief by this Court,
11 Defendants are likely to continue to injure consumers.

12 **THIS COURT'S POWER TO GRANT RELIEF**

13 28. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this
14 Court to grant injunctive and such other relief as the Court may deem appropriate
15 to halt and redress violations of the FTC Act. The Court, in the exercise of its
16 equitable jurisdiction, may award other ancillary relief, including but not limited
17 to rescission of contracts and restitution, and the disgorgement of ill-gotten gains,
18 to prevent and remedy injury caused by the alleged violations of law.

19 **PRAYER FOR RELIEF**

20
21 WHEREFORE, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15
22 U.S.C. § 53(b), and the Court's own equitable powers, requests that this Court:

23 1. Permanently enjoin Defendants from violating Section 5 of the FTC
24 Act as alleged in this complaint;

25 2. Award such relief as the Court finds necessary to redress injury to
26 consumers resulting from the alleged violations of Section 5 of the FTC Act,
27 including but not limited to rescission of contracts and restitution, and the
28 disgorgement of ill-gotten gains by the Defendants; and

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3. Award plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: November 10, 2009

Respectfully submitted,

WILLARD K. TOM
General Counsel

/S/

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Attorneys for Plaintiff
Federal Trade Commission

Exhibit 1

Wholesale Product Online Supplier & Auction Supply - ebay Online Supplier & Auction Business - - Windows Internet Explorer

http://www.onlinesupplier.com/login.php

File Edit View Favorites Tools Help

Wholesale Product Online Supplier & Auction Supply - ...

onlinesupplier.com™

Login ID: Password:  [Email My Password](#)

[Home](#) | [sign up](#) | [faq](#) | [contact us](#) | [hot list](#) | [affiliates](#)

networking  home & office  audio & video  software  computers  electronics 

ACTIVATE FREE
7-DAY
just pay S/H **TRIAL**



“Join 740,000 other people making a FULL time living on eBay!”

We supply you with the tools, training and, most importantly, the inventory you need to use your laptop or home computer to earn the extra cash you deserve!

- Buy products up to 50% below retail pricing! [more](#)
- We ship products directly to your customers! [more](#)
- Get your own online store! [more](#)
- Auction items to the highest bidder! [more](#)

COOL DEALS



Microsoft Windows XP Home Edition with Service Pack 2
Retail: \$119.20
Your Price: \$107.35



Membership Benefits

Earn money fast by selling our below-wholesale products direct to the consumer via online auctions.

- Advanced training materials.
- You always get paid first!

Testimonials

“They give you a fast and easy way to make your own website, they supply great quality retail products for you to sell at whatever price you think is fair, and you never have to worry about storing anything unless you want to.”

- Rosemary S.

Done

Internet 100%

start eBay Auction Home & ... Wholesale Product O...

10:34 AM

Wholesale Product Online Supplier & Auction Supply - ebay Online Supplier & Auction Business - - Windows Internet Explorer


http://www.onlinesupplier.com/login.php

File Edit View Favorites Tools Help


Wholesale Product Online Supplier & Auction Supply - ...

WPAI
just pay S/H **TRIAL**


COOL DEALS



Microsoft Windows XP Home Edition with Service Pack 2
Retail: \$119.20
Your Price: \$107.35



Zonet ZEW2502 Wireless LAN USB Adapter
Retail: \$31.90
Your Price: \$23.75



We supply you with the tools, training and, most importantly, the inventory you need to use your laptop or home computer to earn the extra cash you deserve!

- ❑ Buy products up to 50% below retail pricing! [more](#)
- ❑ We ship products directly to your customers! [more](#)
- ❑ Get your own online store! [more](#)
- ❑ Auction items to the highest bidder! [more](#)

Membership Benefits

Earn money fast by selling our below-wholesale products direct to the consumer via online auctions.

- Advanced training materials.
- You always get paid first!
- We ship items directly to your customers.

Create your own eCommerce website featuring products selected from our massive inventory.

- Create an online store with dynamic content.
- Mark up the product prices as you want.
- You are in total control!

Testimonials

“ They give you a fast and easy way to make your own website, they supply great quality retail products for you to sell at whatever price you think is fair, and you never have to worry about storing anything unless you want to. ”

- Rosemary S. Brandenburg, KY

“ My customers keep calling to say, “Thanks!” They love their products from your company. You made my dreams come true!!! I never thought business would be this easy. With the training you provided I quickly learned that it is easy to succeed, any one can do it! ”

- Mike G. St. Louis, MO

Wholesale Products from Your Online Auction Supplier

Done

start eBay Auction Home &... Wholesale Product O...

Internet 100%

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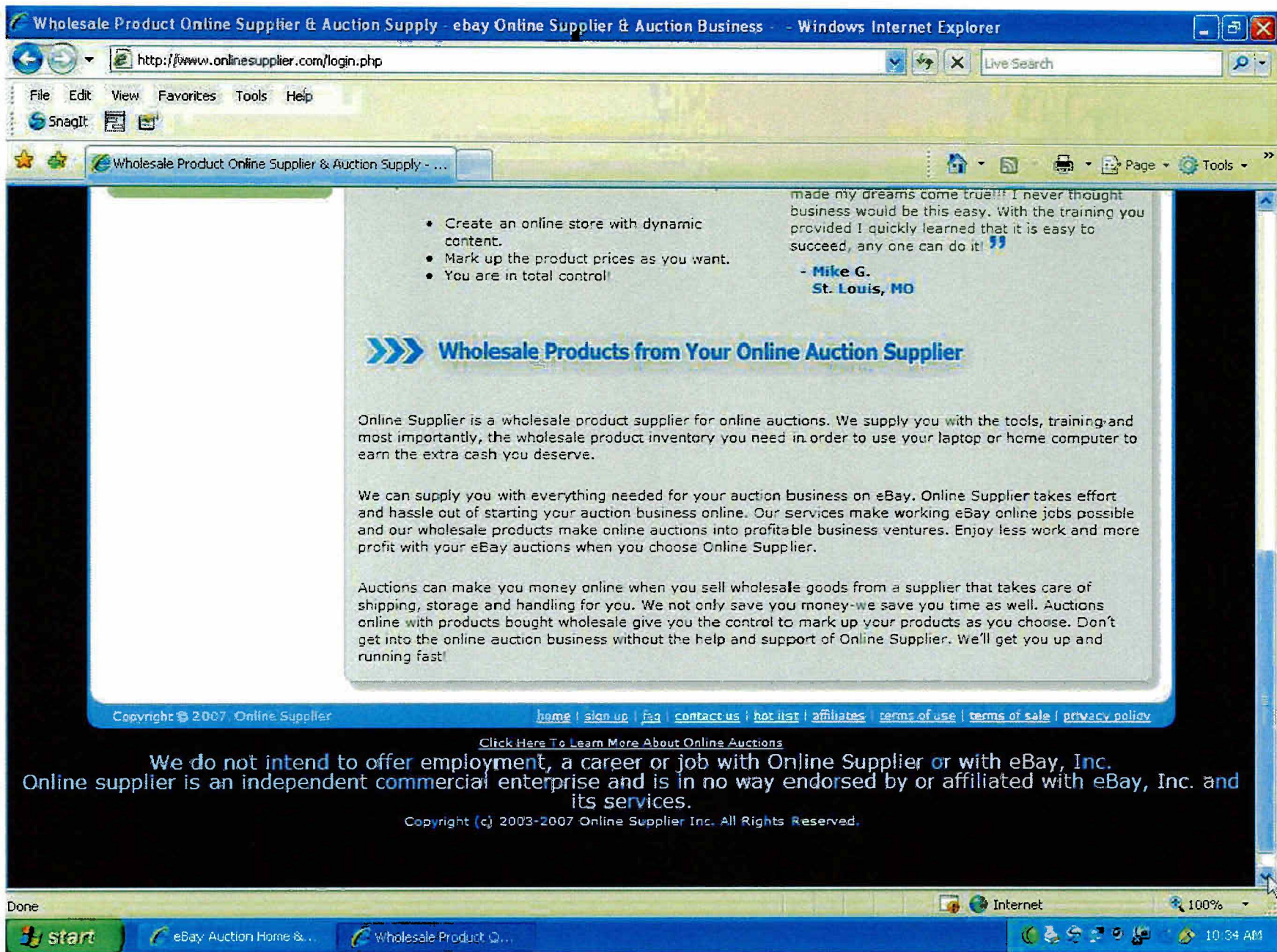


Exhibit 2

eBay Auction Home & Small Business Site - Find eBay Wholesale Merchandise to Sell - eBay Drop S - Windows Internet Explorer

http://www.onlinesupplier.com/sign_up.php?ext=8916&subid=CD9184

File Edit View Favorites Tools Help

SnagIt

eBay Auction Home & Small Business Site - Find eBay ...

Home RSS Print Page Tools

Work From Home!
Don't Miss Out

August 20th, 2007 Special Bonus!!!
Limited Time Offer! \$250 in Free
Products to sell on eBay.
Just Pay S/H

**OVER \$52 BILLION WAS MADE
ON eBay LAST YEAR!**

JOIN OVER 724,000 AMERICANS MAKING A LIVING ON EBAY! HURRY THIS IS A LIMITED TIME OFFER!

CBS CBS News published a story about people making a living on eBay! [CLICK HERE TO READ ABOUT IT](#)

ONLINE AUCTION STARTER KIT!

The Online Auction Starter Kit includes everything you need to get started right away. We show you what works. eBay is the best place to sell virtually anything and make huge profits with little effort.

The Online Auction Starter Kit provides detailed instructions

This Offer will end in **14:59** Minutes!

Where do we ship your **FREE KIT?**

Just Pay S/H

First Name:

Last Name:

Country: United States

Address:

City:

State: (Select One)

Zip Code:

Mobile:

Done

start eBay Auction Home & ...

Internet 100%

10:25 AM

Windows Internet Explorer
http://www.onlinesupplier.com/sign_up.php?ext=89188&subid=CD9184
File Edit View Favorites Tools Help
SnagIt
eBay Auction Home & Small Business Site - Find eBay ...

ON eBay LAST YEAR!

JOIN OVER 724,000 AMERICANS MAKING A LIVING ON EBAY! HURRY THIS IS A LIMITED TIME OFFER!

CBS CBS News published a story about people making a living on eBay! [CLICK HERE TO READ ABOUT IT](#)

ONLINE AUCTION STARTER KIT!

The Online Auction Starter Kit includes everything you need to get started right away. We show you what works. eBay is the best place to sell virtually anything and make huge profits with little effort.

The Online Auction Starter Kit provides detailed instructions to maximize profits, using little known but proven strategies.

GET YOUR KIT NOW

Our Starter Kit includes the following benefits:

1. Step-by-step Quick Start Guide.
2. No experience required.
3. Advanced training for experienced auctioneers.
4. Up to 50% discounts on 1,000s of name brand products.

This Offer will end in **13:36** Minutes!

Where do we ship your FREE KIT?
Just Pay S/H

First Name: Rupa
Last Name: Singh
Country: United States
Address: 689 Bush Street
City: San Francisco
State: California
Zip Code: 94108
Mobile Phone: 415 564 2689
Phone: 415 986 4400
Email: eraandar@gmail.com

Yes, I'd like to increase my income for free!

Ship My Kit!

GET YOUR ONLINE

start eBay Auction Home & Small Business Site - Find eBay ... https://secure1.onlin... 100% 10:26 AM

eBay Auction Home & Small Business Site - Find eBay Wholesale Merchandise to Sell - eBay Drop S - Windows Internet Explorer

http://www.onlinesupplier.com/sign_up.php?ext=8918&subid=CD9194

File Edit View Favorites Tools Help


SnagIt

eBay Auction Home & Small Business Site - Find eBay ...

Our Starter Kit includes the following benefits:


1. Step-by-step Quick Start Guide.
2. No experience required.
3. Advanced training for experienced auctioneers.
4. Up to 50% discounts on 1,000s of name brand products.
5. And thats just to start...

— SUCCESS STORIES —



"I have the ability in one week to earn as much as I can make in a month in the fire department. That's putting in very little effort and I can do as much or as little as I want."

-Michael Morisi, Sterling, VA




"One of the things that I wanted to do was work for myself and become my own boss. Online Supplier has been there. They've guided me, they've trained me, and they've encouraged me. I've been a part of their team since October 2003."

-Lillian Hill, Sport, LA

my income for free!

Ship My Kit!

GET YOUR
ONLINE AUCTION STARTER KIT
TODAY FREE!



~~WAS 19.95~~ **NOW FREE!**
(limited time offer)

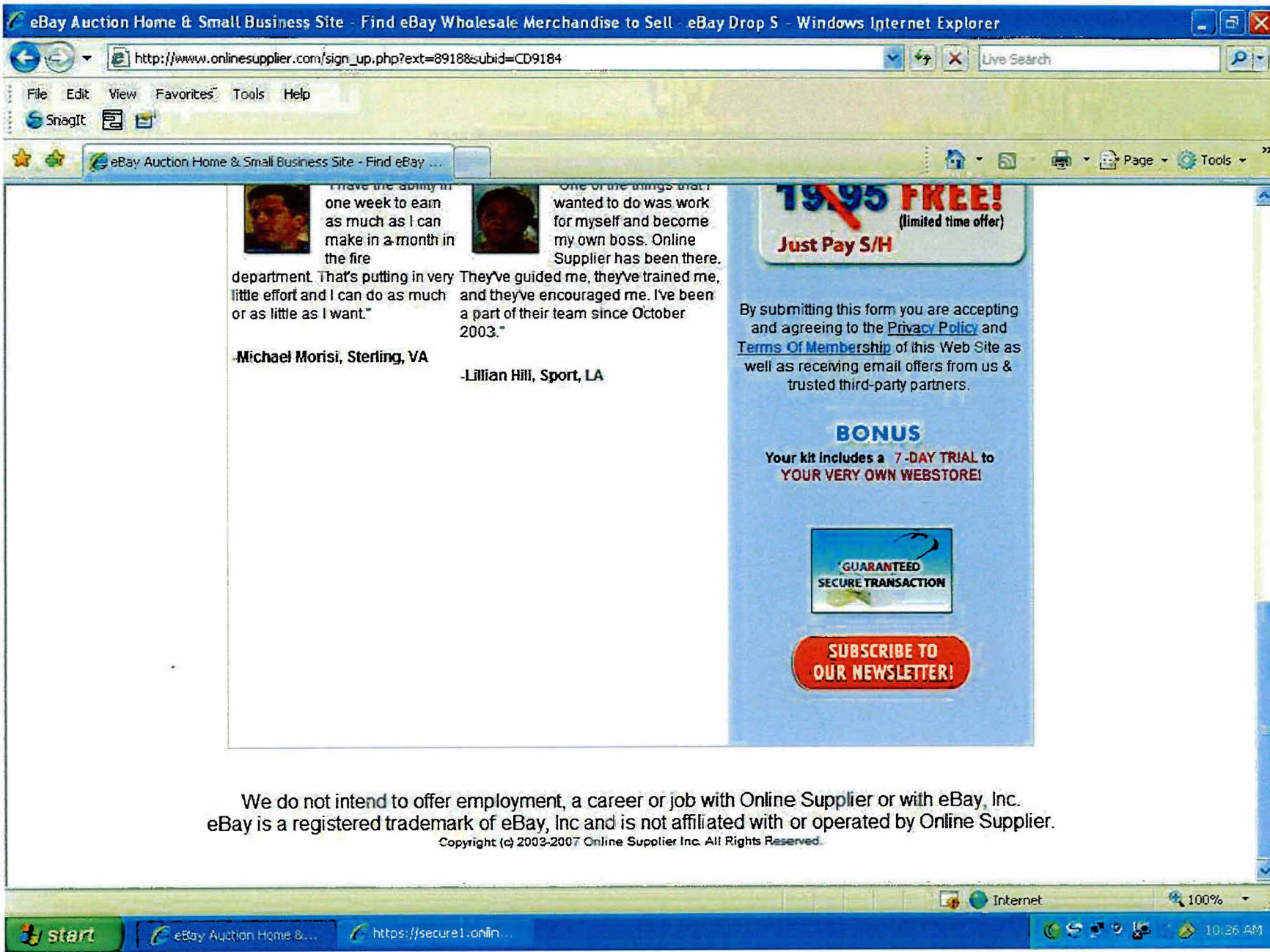
Just Pay S/H


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BONUS

Your kit includes a **7-DAY TRIAL** to **YOUR VERY OWN WEBSTORE!**


**GUARANTEED
SECURE TRANSACTION**



 I have the ability in one week to earn as much as I can make in a month in the fire

department. That's putting in very little effort and I can do as much or as little as I want."

-Michael Morisi, Sterling, VA

 One of the things that I wanted to do was work for myself and become my own boss. Online Supplier has been there.

They've guided me, they've trained me, and they've encouraged me. I've been a part of their team since October 2003."

-Lillian Hill, Sport, LA

19.95 FREE!
(limited time offer)
Just Pay S/H

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BONUS

Your kit includes a **7-DAY TRIAL** to **YOUR VERY OWN WEBSTORE!**



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Online Auction Starter Kit! - Windows Internet Explorer

https://secure1.onlinesupplier.com/sign_up.php?sid=5eb23369ccdfb0587c25237899377fb5

File Edit View Favorites Tools Help

Online Auction Starter Kit!

Work From Anywhere Using Your Computer!

onlinesupplier.com

You are **CLOSE CLICK AWAY** from receiving the most up-to-date information for making money on eBay!

Choose Your Shipping Method:

Shipping Method: Regular - \$1.95

Choose Your Payment Method:

VISA MasterCard

Card Type: (Select Your Card)

Credit Card #:

Exp. Date: 08 / 2007

Name on Card:

Enter security code located on [What is this?](#)

Ship My Kit!

Charges will appear as Online Supplier

(Please click the submit button only once. Processing may take several minutes).

Done

start Online Auction Starte... https://secure1.onlin... 10:36 AM

Online Auction Starter Kit! - Windows Internet Explorer

https://secure1.onlinesupplier.com/sign_up.php?sid=5eb23369ccdfb0587c25237899377fb5

File Edit View Favorites Tools Help

Online Auction Starter Kit!

You are **3.23 miles away** from receiving the most up-to-date information for making money on **eBay!**

GUARANTEED SECURE TRANSACTION

Choose Your Shipping Method:

Shipping Method: Regular - \$1.95

Choose Your Payment Method:

VISA MasterCard

Card Type: (Select Your Card)

Credit Card #:

Exp. Date: 08 / 2007

Name on Card:

Enter security code located on [What is this?](#)

Ship My Kit!

Charges will appear as Online Supplier

(Please click the submit button only once. Processing may take several minutes)

VERIFIED by VISA MasterCard SecureCode.

Your card may be eligible or enrolled in Verified by Visa or MasterCard SecureCode. After submitting this form, you may be prompted for your payer authentication password to complete your purchase.


Done Internet 100% 10:27 AM

Online Auction Starter Kit! - Windows Internet Explorer

https://secure1.onlinesupplier.com/sign_up.php?sid=5eb23369ccdfb0587c25237899377fb5

File Edit View Favorites Tools Help


Online Auction Starter Kit!



Enter security code located on [What is this?](#)
card:

Ship My Kit!

Charges will appear as Online Supplier
(Please click the submit button only once.
Processing may take several minutes).



Your card may be eligible or enrolled in Verified by Visa or MasterCard SecureCode. After submitting this form, you may be prompted for your payer authentication password to complete your purchase.

By submitting this form, you agree to the [Privacy Policy](#) of this Web Site, the Onlinesupplier.com free trial including the complete [Terms and Conditions](#) of the trial membership, the \$1.95/\$7.95 shipping and handling, and to the following statement: "I UNDERSTAND THAT THIS CONSUMER TRANSACTION INVOLVES A NEGATIVE OPTION, AND THAT I MAY BE LIABLE FOR PAYMENT OF FUTURE GOODS AND SERVICES UNDER THE TERMS OF THIS AGREEMENT FOR \$59.95 PER MONTH IF I FAIL TO NOTIFY THE SUPPLIER NOT TO SUPPLY THE GOODS OR SERVICES DESCRIBED." Your Online Auction kit will ship out within the next 2-3-business days. Your kit is the perfect tool to start a home-based auction business. You will also enjoy a free trial membership to Onlinesupplier.com, where you can buy thousands of name brand products at up to 50% off and have your very own webstore.

Copyright (c) 2007 Online Supplier Inc. All Rights Reserved.

Done Internet 100% 10:27 AM

Exhibit 3

Terms and Conditions

Page 1 of 12

Online Supplier Terms and Conditions

Customer Service Toll-Free Number: 1-800-831-3952

For international orders the telephone numbers are:

UK: 00-800-3333-0012

Australia: 0011-800-3333-0012

New Zealand: 00-800-3333-0012

South Africa: 09-800-3333-0012

All other international callers may dial (805) 567-0113.

By signing up for our free trial offer, you agree to pay the shipping and handling fee described in the offer. These charges will be immediately billed to the credit card or debit card you provided us.

Further, by signing up for this free trial offer, you will automatically be registered for a free 7-day trial membership in OnlineSupplier.com. This membership allows you to buy thousands of name brand products at up to 50% off and have your very own webstore.

If you do not contact our customer service to cancel your OnlineSupplier.com membership within 7 days, you will automatically be charged a monthly membership fee of \$59.95, and you will be charged this monthly fee every 30 days thereafter until you cancel your membership. We will bill the credit card or checking/savings account you provided to us at sign-up for the free trial offer.

1. User's Acknowledgment and Acceptance of Terms

Consumer Loyalty Group, LLC. (referred to as "us" or "we") provides the www.onlinesupplier.com site and various related services (together referred to as this "site") subject to your compliance with all the terms, conditions, and notices contained or referenced herein (the "Terms of Use"), as well as any other written agreement between us (or your company). In addition, when using particular services or materials on this site, users shall be subject to any posted guidelines or rules applicable to such services or materials that may contain terms and conditions in addition to those in these Terms of Use. All such guidelines or rules are hereby incorporated by reference into these Terms of Use.

BY COMPLETING THE REGISTRATION PROCESS AND/OR USING THIS SITE, YOU AGREE TO BE BOUND BY THESE TERMS OF USE. IF YOU DO NOT WISH TO BE BOUND BY THE THESE TERMS OF USE, PLEASE EXIT THE SITE NOW. YOUR REMEDY FOR DISSATISFACTION WITH THIS SITE, OR ANY PRODUCTS, SERVICES, CONTENT, OR OTHER INFORMATION AVAILABLE ON OR THROUGH THIS SITE, IS TO STOP USING THE SITE AND/OR THOSE PARTICULAR PRODUCTS OR SERVICES. YOUR AGREEMENT WITH US REGARDING COMPLIANCE WITH THESE TERMS OF USE BECOMES EFFECTIVE IMMEDIATELY UPON COMMENCEMENT OF YOUR USE OF THIS SITE.

These Terms of Use are effective as of August 20, 2003. We reserve the right to change these Terms of Use from time to time without notice to you. You acknowledge and agree that it is your responsibility to review this site and these Terms of Use periodically and to be aware of any modifications. Your continued use of this site after such modifications will constitute your acknowledgement of the modified Terms of Use and agreement to abide and be bound by the modified Terms of Use.

http://www.onlinesupplier.com/popup_terms.php

7/17/2007

Terms and Conditions

Page 2 of 12

As used in these Terms of Use, references to our "Affiliates" include our owners, subsidiaries, affiliated companies, officers, directors, suppliers, partners, sponsors, and advertisers, and includes (without limitation) all parties involved in creating, producing, and/or delivering this site and/or its contents.

2. Description of Services

We make various services available on this site including, but not limited to, online auction training, wholesale product distribution, website generation, merchant banking services and tax services. Fees for the various services are set out in the membership and service fees described elsewhere in this site. You are solely responsible for providing, at your own expense, all equipment necessary to use the services, including a computer and modem; and your own Internet access (including payment of telephone service fees associated with such access).

We reserve the sole right to either modify or discontinue the site, including any features therein, at any time with or without notice to you. We shall not be liable to you or any third party should we exercise such right. Modifications may include, but are not limited to, changes in the pricing structure, the addition of fee-based services, or changes to limitations on allowable file sizes. Any new features that augment or enhance the then-current services on this site shall also be subject to these Terms of Use.

You understand and agree that temporary interruptions of the services available through this site may occur as normal events. You further understand and agree that we have no control over third party networks you may access in the course of the use of this site, and therefore, delays and disruption of other network transmissions are completely beyond our control.

You understand and agree that the services available on this site are provided "AS IS" and that we assume no responsibility for the timeliness, deletion, mis-delivery or failure to store any user communications or personalization settings.

3. Registration Data and Privacy

In order to access some of the services on this site, you will require a separate account and password that can be obtained by completing our online registration form, which requests certain information and data ("Registration Data") and maintaining and updating your Registration Data as required. By registering, you agree that all information provided in the Registration Data is true and accurate and that you will maintain and update this information as required in order to keep it current, complete and accurate.

You also grant us the right to disclose to third parties certain Registration Data about you. The information we obtain through your use of this site, including your Registration Data, is subject to our Privacy Policy, which is specifically incorporated by reference into these Terms of Use.

4. Payment of Fees

You agree to pay all fees associated with this service, including the activation/shipping and handling fee and the monthly web hosting fee of \$59.95. For all charges for services on this site, we will bill your credit card or checking/savings account provided to us at activation. Activation/shipping and handling charges will be billed to

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the account you have provided us at the time of activation and reoccurring charges will be billed after your 7-day trial and every 30 days thereafter unless you contact customer service to cancel your membership. You agree to provide us with accurate and complete billing information, including valid credit card/checking/savings account information, your name, address and telephone number, and to provide us with any changes in such information within 10 days of the change.

If, for any reason, your credit card company refuses to pay the amount billed for the service, you agree that we may, at our option, suspend or terminate your subscription to the service and require you to pay the overdue amount by other means acceptable to us. We may charge a fee for reinstatement of suspended or terminated accounts.

You agree that until your subscription to the service is terminated, you will continue to accrue charges for which you remain responsible, even if you do not use the service.

In the event legal action is necessary to collect on balances due, you agree to reimburse us for all expenses incurred to recover sums due, including attorney fees and other legal expenses.

5. Conduct on Site

Your use of the site is subject to all applicable laws and regulations, including Netiquette, and you are solely responsible for the contents of your communications through the site. By posting information in or otherwise using any communications service, chat room, message board, newsgroup, software library, or other interactive service that may be available to you on or through this site, you agree that you will not upload, share, post, or otherwise distribute or facilitate distribution of any content -- including text, communications, software, images, sounds, data, or other information -- that:

1. Is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, contains explicit or graphic descriptions or accounts of sexual acts (including but not limited to sexual language of a violent or threatening nature directed at another individual or group of individuals), or otherwise violates our rules or policies;
2. Victimizes, harasses, degrades, or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;
3. Infringes on any patent, trademark, trade secret, copyright, right of publicity, or other proprietary right of any party;
4. Constitutes unauthorized or unsolicited advertising, junk or bulk email (also known as "spamming"), chain letters, any other form of unauthorized solicitation, or any form of lottery or gambling;
5. Contains software viruses or any other computer code, files, or programs that are designed or intended to disrupt, damage, or limit the functioning of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any data or other information of any third party; or
6. Impersonates any person or entity, including any of our employees or representatives.

We neither endorse nor assume any liability for the contents of any material uploaded or submitted by third party users of the site. We generally do not pre-screen, monitor, or edit the content posted by users of communications services, chat rooms, message boards, newsgroups, software libraries, or other interactive services that may be available on or through this site. However, we and our agents have the right at their sole

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discretion to remove any content that, in our judgment, does not comply with these Terms of Use and any other rules of user conduct for our site, or is otherwise harmful, objectionable, or inaccurate. We are not responsible for any failure or delay in removing such content. You hereby consent to such removal and waive any claim against us arising out of such removal of content. See "Use of Your Materials" below for a description of the procedures to be followed in the event that any party believes that content posted on this site infringes on any patent, trademark, trade secret, copyright, right of publicity, or other proprietary right of any party.

In addition, you may not use your account to breach security of another account or attempt to gain unauthorized access to another network or server. Not all areas of the site may be available to you or other authorized users of the site. You shall not interfere with anyone else's use and enjoyment of the site or other similar services. Users who violate systems or network security may incur criminal or civil liability.

You agree that we may at any time, and at our sole discretion, terminate your membership without prior notice to you for violating any of the above provisions. In addition, you acknowledge that we will cooperate fully with investigations of violations of systems or network security at other sites, including cooperating with law enforcement authorities in investigating suspected criminal violations.

6. Third Party Sites and Information

This site may link you to other sites on the Internet or otherwise include references to information, documents, software, materials and/or services provided by other parties. These sites may contain information or material that some people may find inappropriate or offensive. These other sites and parties are not under our control, and you acknowledge that we are not responsible for the accuracy, copyright compliance, legality, decency, or any other aspect of the content of such sites, nor are we responsible for errors or omissions in any references to other parties or their products and services. The inclusion of such a link or reference is provided merely as a convenience and does not imply endorsement of, or association with, the site or party by us, or any warranty of any kind, either express or implied.

7. Intellectual Property Information

Copyright © Consumer Loyalty Group, LLC.
All Rights Reserved.

For purposes of these Terms of Use, "content" is defined as any information, communications, software, photos, video, graphics, music, sounds, and other material and services that can be viewed by users on our site. This includes, but is in no way limited to, message boards, chat, and other original content.

By accepting these Terms of Use, you acknowledge and agree that all content presented to you on this site is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws, and is the sole property of Consumer Loyalty Group, LLC. and/or its Affiliates. You are only permitted to use the content as expressly authorized by us or the specific content provider. Except for a single copy made for personal use only, you may not copy, reproduce, modify, republish, upload, post, transmit, or distribute any documents or information from this site in any form or by any means without prior written permission from us or the specific content provider, and you are solely responsible for obtaining permission before reusing any copyrighted material that is available on this site. Any unauthorized use of the materials appearing on this site may violate

copyright, trademark and other applicable laws and could result in criminal or civil penalties.

Neither we or our Affiliates warrant or represent that your use of materials displayed on, or obtained through, this site will not infringe the rights of third parties. See "Use of Your Materials" below for a description of the procedures to be followed in the event that any party believes that content posted on this site infringes on any patent, trademark, trade secret, copyright, right of publicity, or other proprietary right of any party.

The following are registered trademarks, trademarks or service marks of Consumer Loyalty Group, LLC. or its Affiliates: NeWave, inc. All custom graphics, icons, logos and service names are registered trademarks, trademarks or service marks of Consumer Loyalty Group, LLC. or its Affiliates. All other trademarks or service marks are property of their respective owners. Nothing in these Terms of Use grants you any right to use any trademark, service mark, logo, and/or the name of Consumer Loyalty Group, LLC. or its Affiliates.

Certain of the ideas, software and processes incorporated into the Online Supplier service that is available on this site are protected by patent applications pending in the United States, and we intend to prepare and file additional patent applications in selected foreign jurisdictions.

8. Copyright Infringement Policy

Infringement Notification

We respect the intellectual property of others, and we ask you to do the same. If you or any user of this site believes its copyright has been infringed by a posting on this site, you or the user should send notification to our Designated Agent (as identified below) immediately. To be effective, the notification must include:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed
2. Identification of the copyrighted work claimed to have been infringed;
3. Information reasonably sufficient to permit us to contact the complaining party, such as address, telephone number and, if available, an electronic mail address at which the complaining party may be contacted;
4. Identification of the material that is claimed to be infringing or to be subject to infringing activity and that is to be removed and information reasonably sufficient to permit us to locate the materials;
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, agent, or the law; and
6. A statement that the information in the notification is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringing.

Pursuant to the Digital Millennium Copyright Act, 17 U.S.C. Sec. 512(c), our Designated Agent for Notice of claims of copyright infringement can be reached as indicated below. Service of repeat infringers of copyright or of users about whom repeat claims of copyright infringement are received will be terminated.

Upon receipt of appropriate email notification from the Complaining Party according to the above, we will remove or disable access to the material that is claimed to be infringing.

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Further, if the Complaining Party provides us with appropriate email notification, including information reasonably sufficient to permit us to locate and remove or disable the material in question, or includes information concerning repeat infringement, then we will forward the Complaining Partys written notification to such alleged Infringer and shall take reasonable steps promptly to notify the Infringer that it has removed or disabled access to the material.

Counter Notification Policy

If you have received a notice of copyright or trademark infringement, you may provide Counter Notification by contacting our Designated Agent (see below) and including the following:

1. An electronic signature of the Infringer.
2. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.
3. A statement under penalty of perjury that the Infringer has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.
4. The Infringers name, address, and telephone number, and a statement that the Infringer consents to the jurisdiction of the Federal District Court for the Centraq District of California or if the Infringers address is outside of the United States, and that the Infringer will accept service of process from the Complaining Party or an agent of such Party.

Upon receipt of a Counter Notification as described in Section 1 above, we shall promptly provide the Complaining Party with a copy of the Counter Notification, and inform such Party that it will replace the removed material or cease disabling access to it in 10 business days. We will replace the removed material and cease disabling access to it in not less than 10, nor more than 14, business days following receipt of the Counter Notification, unless we first receive notice from the Complaining Party that such Complaining Party has filed an action seeking a court order to restrain the Infringer from engaging in infringing activity relating to the material on our system or network.

Designated Agent for Claimed Infringement:

CLG Copyright Infringement Officer
30 S. La Patera Lane, Suite 7
Goleta, CA 93117
Tel: 805-567-0131
E-mail: privacy@commerceplanet.com

Termination of Repeat Infringers

Notwithstanding the above, we will terminate the account of any user who repeatedly infringes copyrighted materials or about whom repeat claims of copyright infringement we receive.

Your acknowledge and agree that upon receipt of a notice of a claim of copyright infringement, we may immediately remove the identified materials from our site without liability to you or any other party and that the claims of the complaining party and the party that originally posted the materials will be referred to the United

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States Copyright Office for adjudication as provided in the Digital Millennium Copyright Act.

9.Disclaimer of Warranties

ALL MATERIALS AND SERVICES ON THIS SITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THE WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, WE MAKE NO WARRANTY THAT (A) THE SERVICES AND MATERIALS WILL MEET YOUR REQUIREMENTS, (B) THE SERVICES AND MATERIALS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (C) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR MATERIALS WILL BE EFFECTIVE, ACCURATE OR RELIABLE, OR (D) THE QUALITY OF ANY PRODUCTS, SERVICES, OR INFORMATION PURCHASED OR OBTAINED BY YOU FROM THE SITE FROM US OR OUR AFFILIATES WILL MEET YOUR EXPECTATIONS OR BE FREE FROM MISTAKES, ERRORS OR DEFECTS.

THIS SITE COULD INCLUDE TECHNICAL OR OTHER MISTAKES, INACCURACIES OR TYPOGRAPHICAL ERRORS. WE MAY MAKE CHANGES TO THE MATERIALS AND SERVICES AT THIS SITE, INCLUDING THE PRICES AND DESCRIPTIONS OF ANY PRODUCTS LISTED HEREIN, AT ANY TIME WITHOUT NOTICE. THE MATERIALS OR SERVICES AT THIS SITE MAY BE OUT OF DATE, AND WE MAKE NO COMMITMENT TO UPDATE SUCH MATERIALS OR SERVICES.

THE USE OF THE SERVICES OR THE DOWNLOADING OR OTHER ACQUISITION OF ANY MATERIALS THROUGH THIS SITE IS DONE AT YOUR OWN DISCRETION AND RISK AND WITH YOUR AGREEMENT THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM SUCH ACTIVITIES.

Through your use of the site, you may have the opportunities to engage in commercial transactions with other users and vendors. You acknowledge that all transactions relating to any merchandise or services offered by any party, including, but not limited to the purchase terms, payment terms, warranties, guarantees, maintenance and delivery terms relating to such transactions, are agreed to solely between the seller or purchaser of such merchandise and services and you. WE MAKE NO WARRANTY REGARDING ANY TRANSACTIONS EXECUTED THROUGH, OR IN CONNECTION WITH THIS SITE, AND YOU UNDERSTAND AND AGREE THAT SUCH TRANSACTIONS ARE CONDUCTED ENTIRELY AT YOUR OWN RISK. ANY WARRANTY THAT IS PROVIDED IN CONNECTION WITH ANY PRODUCTS, SERVICES, MATERIALS, OR INFORMATION AVAILABLE ON OR THROUGH THIS SITE FROM A THIRD PARTY IS PROVIDED SOLELY BY SUCH THIRD PARTY, AND NOT BY US OR ANY OTHER OF OUR AFFILIATES.

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Content available through this site often represents the opinions and judgments of an information provider, site user, or other person or entity not connected with Consumer Loyalty Group, LLC. We do not endorse, nor are we responsible for the accuracy or reliability of, any opinion, advice, or statement made by anyone other than an authorized Consumer Loyalty Group, LLC. spokesperson speaking in his/her official capacity. Please refer to the specific editorial policies posted on various sections of this site for further information, which policies are

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incorporated by reference into these Terms of Use.

In addition, the materials on this site may include sample or form agreements, letters or other documents, including financially or legally significant documents such as contracts and other items ("Forms"). These Forms are provided solely as examples of typical documents of their kind, and the delivery and use of Forms does not constitute legal, accounting or other professional advice. Under no circumstances will Consumer Loyalty Group, LLC. or its Affiliates be liable for any loss or damages caused by your reliance on information or advice obtained through this site, including your use of any of the Forms. It is your responsibility to evaluate the accuracy, completeness, or usefulness of any information, opinions, advice, Forms or other content available on or through this site. In particular, you are urged to consult an appropriate professional licensed in your jurisdiction before using any Forms or otherwise relying on any legal, accounting, or other professional advice or information obtained on or through this site.

SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

10.Limitation of Liability

Your exclusive remedy and our entire liability, if any, for any claims arising out of these Terms of Use and your use of this site shall be limited to the amount you paid us for the services on the site during the one month period before the act giving rise to the liability.

IN NO EVENT SHALL WE OR OUR AFFILIATES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOSS OF USE, DATA OR PROFITS, WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS SITE OR OF ANY WEB SITE REFERENCED OR LINKED TO FROM THIS SITE.

FURTHER, WE SHALL NOT BE LIABLE IN ANY WAY FOR THRID PARTY GOODS AND SERVICES OFFERED THROUGH THIS SITE OR FOR ASSISTANCE IN CONDUCTING COMMERCIAL TRANSACTIONS THROUGH THIS SITE, INCLUDING WITHOUT LIMITATION THE PROCESSING OF ORDERS.

SOME JURISDICTIONS PROHIBIT THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

11.Indemnification

Upon a request by us, you agree to defend, indemnify, and hold us and our Affiliates harmless from all liabilities, claims, and expenses, including attorney's fees, that arise from your use or misuse of this site. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with us in asserting any available defenses.

12.Participation in Promotions

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From time to time, this site may include advertisements offered by third parties. You may enter into correspondence with or participate in promotions of the advertisers showing their products on this site. Any such correspondence or promotions, including the delivery of and the payment for goods and services, and any other terms, conditions, warranties or representations associated with such correspondence or promotions, are solely between you and the advertiser. We assume no liability, obligation or responsibility for any part of any such correspondence or promotion.

13. Email Services

We may make email services available to users of our site, either directly or through a third-party provider.

We will not inspect or disclose the contents of private email messages except with the consent of the sender or the recipient, or in the narrowly-defined situations provided under the Electronic Communications Privacy Act, or as other required by law or by court or governmental order. Further information is available in our Privacy Policy.

We may employ automated monitoring devices or techniques to protect our users from mass unsolicited mailings (also known as "spam") and/or other types of electronic communications that we deem inconsistent with our business purposes. However, such devices or techniques are not perfect, and we will not be responsible for any legitimate communication that is blocked, or for any unsolicited communication that is not blocked.

Mailboxes may have a limited storage capacity. If you exceed the maximum permitted storage space, we may employ automated devices that delete or block email messages that exceed the limit. We will not be responsible for such deleted or blocked messages.

14. Use of Site and Storage of Material

You acknowledge that we may establish general practices and limits concerning use of the services available on our site, including without limitation the maximum number of days that uploaded content will be retained on the site, the maximum disk space that will be allotted on our servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the services in a given period of time. You agree that we have no responsibility or liability for the deletion or failure to store any content maintained or transmitted on or through this site. You acknowledge that we reserve the right to log off accounts which have not paid a subscription fee that are inactive for an extended period of time. You further acknowledge that we reserve the right to change these general practices and limits at any time, in our sole discretion, with or without notice.

We provide storage space and access for material through our site. For purposes of these Terms of Use, "material" refers to all forms of communication that we may allow, including narrative descriptions, graphics (including photographs, illustrations, images, drawings, logos), executable programs, video recordings, and audio recordings. You may not use this site to publish material that we determine, at our sole discretion, to be unlawful, indecent, or objectionable, or which violates the restrictions described in "Your Conduct on the Site" above. We will not routinely monitor the contents of your online portfolio. You are solely responsible for any information contained in your online portfolios. However, if complaints are received regarding language, content, or graphics contained in your online portfolio, we may, at our sole discretion, remove the images hosted on our servers and terminate your Web hosting service. We may also suspend the account, restrict access to it, or

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remove content from it if necessary or appropriate.

The accounts of our users operate on shared resources. Excessive use or abuse of these shared network resources by one user may have a negative impact on all other users. Misuse of network resources in a manner that impairs network performance, including excessive consumption of CPU time, memory, disk space, and session time, is prohibited and may result in termination of your account or limitation of your activities.

This site is not designed or intended to be used as a disaster recovery facility or as an emergency data storage facility. Although we take reasonable precautions to preserve and protect the material you upload to the site, you should not rely on the site as your only storage facility. You should preserve backup copies of any digital data, information or other materials that you have uploaded. You agree not to hold us for any damage to, any deletion of or any failure to store your files, data or Registration Data.

15.Security and Password

You are solely responsible for maintaining the confidentiality of your password and account and for any and all statements made and acts or omissions that occur through the use of your password and account, including any mail sent and any charges incurred. Therefore, you must take steps to ensure that others do not gain access to your password and account. Our personnel will never ask you for your password. You may not transfer or share your account with anyone, and we reserve the right to immediately terminate your account in the event of any unauthorized transfer or sharing thereof.

16.Export Controls

Software available on or through this site is subject to United States Export Controls. No software from this site may be downloaded or exported (a) into (or to a resident of) Cuba, Iraq, Libya, North Korea, Iran, Syria, or any other country which the United States has embargoed goods; or (b) anyone on the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Department's Table of Deny Orders. By downloading or using the software, you represent and warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.

17.International Use

Although this site may be accessible worldwide, we make no representation that materials on this site are appropriate or available for use in locations outside the United States, and accessing them from territories where their contents are illegal is prohibited. Those who choose to access this site from other locations do so on their own initiative and are responsible for compliance with local laws. Any offer for any product, service, and/or information made in connection with this site is void where prohibited.

18.Termination of Use

You agree that we may, in our sole discretion, terminate or suspend your access to all or part of the site with or without notice and for any reason, including, without limitation, breach of these Terms of Use. Any suspected fraudulent, abusive or illegal activity may be grounds for terminating your relationship and may be referred to appropriate law enforcement authorities.

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Upon termination or suspension, regardless of the reasons therefore, your right to use the services available on this site immediately ceases, and you acknowledge and agree that we may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or this site. We shall not be liable to you or any third party for any claims or damages arising out of any termination or suspension or any other actions taken by us in connection therewith. Sections 1, 3, 5-11, 14, and 18-20 of these Terms of Use, as well as your liability for any unpaid fees, shall survive any termination.

19. Governing Law

This site (excluding any linked sites) is controlled by us from our offices within the State of California United States of America. It can be accessed from all 50 states, as well as from other countries around the world. As each of these places has laws that may differ from those of California by accessing this site both of us agree that the statutes and laws of the State of California, without regard to the conflicts of laws principles thereof and the United Nations Convention on the International Sales of Goods, will apply to all matters relating to the use of this site and the purchase of products and services available through this site. Each of us agrees and hereby submits to the exclusive personal jurisdiction and venue of the Superior Court of Los Angeles County and the United States District Court for the Central District of California with respect to such matters.

20. Notices

All notices to a party shall be in writing and shall be made either via email or conventional mail. Notices to us must be sent to the attention of Customer Service at memberservices@osprocessing.com, if by email, or Online Supplier, 30 S. La Patera Lane, Suite 7, Goleta, CA 93117 if by conventional mail. Notices to you may be sent either to the email address supplied for your account or to the address supplied by you as part of your Registration Data. In addition, we may broadcast notices or messages through the site to inform you of changes to the site or other matters of importance, and such broadcasts shall constitute notice to you.

Any notices or communication under these Terms of Use will be deemed delivered to the party receiving such communication (1) on the delivery date if delivered personally to the party; (2) two business days after deposit with a commercial overnight carrier, with written verification of receipt; (3) five business days after the mailing date, if sent by US mail, return receipt requested; (4) on the delivery date if transmitted by confirmed facsimile; or (5) on the delivery date if transmitted by confirmed email.

21. Entire Agreement

These terms and conditions constitute the entire agreement and understanding between us concerning the subject matter hereof and supersedes all prior agreements and understandings of the parties with respect thereto. These Terms of Use may NOT be altered, supplemented, or amended by the use of any other document(s). Any attempt to alter, supplement or amend this document or to enter an order for products or services which are subject to additional or altered terms and conditions shall be null and void, unless otherwise agreed to in a written agreement signed by you and us. To the extent that anything in or associated with this site is in conflict or inconsistent with these Terms of Use, these Terms of Use shall take precedence.

22. Miscellaneous

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In any action to enforce these Terms of Use, the prevailing party will be entitled to costs and attorneys' fees. Any cause of action brought by you against us or our Affiliates must be instituted with one year after the cause of action arises or be deemed forever waived and barred.

You may not assign your rights and obligations under these Terms of Use to any third party, and any purported attempt to do so shall be null and void. We may freely assign our rights and obligations under these Terms of Use.

You agree not to sell, resell, reproduce, duplicate, copy or use for any commercial purposes any portion of this site, or use of or access to this site.

In addition to any excuse provided by applicable law, we shall be excused from liability for non-delivery or delay in delivery of products and services available through our site arising from any event beyond our reasonable control, whether or not foreseeable by either party, including but not limited to, labor disturbance, war, fire, accident, adverse weather, inability to secure transportation, governmental act or regulation, and other causes or events beyond our reasonable control, whether or not similar to those which are enumerated above.

If any part of these Terms of Use is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect.

Any failure by us to enforce or exercise any provision of these Terms of Use or related rights shall not constitute a waiver of that right or provision.

23. Contact Information

Except as explicitly noted on this site, the services available through this site are offered by Consumer Loyalty Group, LLC, a California corporation located at 30 S. La Patera Lane, Suite 7, Goleta, CA 93117. Our telephone number is (800) 831-3952. If you are a California resident, you may have this same information emailed to you by sending a letter to the foregoing address with your email address and a request for this information. The Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs may be contacted in writing at 404 R. Street, Suite 1080, Sacramento, CA 95814 or by telephone at (800) 952-5210. If you notice that any user is violating these Terms of Use, please contact us at memberservices@osprocessing.com

23. Electronic Disclosures and Communications

By agreeing to these Terms of Use and our services, you consent to receiving communications from us electronically instead of on paper. These communications will include notices about your account (e.g., shipping and receiving e-mails and other transactional information); important disclosures and information concerning our service. You also agree that any notice, agreements, disclosure or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing.

Close Window

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) FEDERAL TRADE COMMISSION	DEFENDANTS COMMERCE PLANET, INC., MICHAEL HILL, CHARLES GUGLIUZZA AND AARON GRAVITZ
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) DAVID M NEWMAN; ERIC D. EDMONDSON & RAYMOND E. MCKOWN 901 MARKET STREET, SUITE 570, SAN FRANCISCO, CA 94103 (415) 848-5100	Attorneys (If Known) DOUG ROLLER - COMMERCE PLANET WILLIAM I. ROTHBARD - MICHAEL HILL & AARON DAVID GRAVITS CLAUDE C. WILD III - CHARLES GUGLIUZZA

II. BASIS OF JURISDICTION (Place an X in one box only.) <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify):
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 U.S.C 53(b); 15 USC 45(c); ENGAGING IN UNFAIR/DECEPTIVE ACTS/PRACTICES IN OR AFFECTING COMMERCE, VIOLATION OF 15 USC 45(a)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: _____

SACV09-01324

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County and Santa Barbara County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Santa Barbara County and Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

David M. Newman Date 11/10/09

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Cormac J. Carney and the assigned discovery Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV09- 1324 CJC (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

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NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.