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10 Attorneys for Plaintiff
 11 ENTREPRENEUR MEDIA, INC.

12 UNITED STATES DISTRICT COURT
 13 CENTRAL DISTRICT OF CALIFORNIA

14
 15 ENTREPRENEUR MEDIA, INC., a
 16 California corporation,

17 Plaintiff,

18 vs.

19 RIEVA LESONSKY d/b/a SMB
 20 CONNECTS, an individual, MARIA
 ANTON, an individual,
 21 ALLBUSINESS.COM, INC., a
 California corporation, and DOES 1
 through 10, inclusive,

22 Defendants.

CASE NO. SACV 08-1066 DOC (ANx)
 DECLARATION OF MARK
 TAVAROZZI IN SUPPORT OF
 PLAINTIFF ENTREPRENEUR MEDIA
 INC.'S MOTION FOR PRELIMINARY
 INJUNCTION

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I, Mark Tavarozzi, hereby declare as follows:

1. I am, and have been since January 28, 1998, an employee of Entrepreneur Media, Inc. (“EMI”), and am currently EMI’s Vice President of Consumer Marketing. I have personal knowledge of the matters set forth in this Declaration and, if called upon to do so, could and would testify competently thereto.

2. In the course of its business as a publisher of print and online publications and other information about and of interest to small and mid-sized businesses and entrepreneurs, EMI accumulates and maintains proprietary and confidential databases, including databases of its various customers and EMI’s database of franchise information used in its annual Franchise 500[®] ranking (the “Franchise 500[®] Database”).

3. During the entire period of my employment with EMI, I have been in charge of supervising the “renting” of EMI’s various databases (collectively, the “EMI Lists”), and in particular the names, postal and/or email addresses and other contact information of the persons or companies identified therein (collectively, the “End Users”), for a fee to third-party marketers wishing to send their marketing and other promotional materials to those End Users.

4. All EMI list rentals are handled through a single and exclusive authorized list manager, with which EMI has contracted. In response to a third-party request to rent a specific EMI List or portion thereof, the list manager will require that the marketer first sign and hence agree to the terms set forth in the list manager’s list rental agreement and that EMI first approve the request, which includes approval of the marketer involved and the specific marketing materials to be sent. A true and correct copy of the list rental agreement, which EMI’s list manager, Worldata Infocenter, Inc., requires that all marketers sign, is attached and incorporated by reference as Exhibit A. Once the list rental agreement is signed and the rental request approved by EMI, the list manager will forward the EMI List

1 or requested portion thereof to an independent and bonded mailing house, which
2 will mail the approved marketer's particular marketing materials to the End Users
3 identified in that list on a one-time basis only (absent EMI's prior approval of any
4 multiple use). Under the above procedure, the approved marketer does not have
5 possession of nor see the information contained in the EMI List being rented and,
6 after the mailing has been completed, the mailing house is supposed to scrub or
7 otherwise destroy the EMI List.

8 5. In the past the Franchise 500[®] Database has been made available for
9 rental through our list manager, but only for the purpose of allowing approved
10 marketers to send their marketing materials to the franchises listed in that database.
11 It is my understanding, and I have been assured by our list manager, that the only
12 information in the Franchise 500[®] Database made available for use by marketers is
13 the same contact information concerning the franchisors that is published in EMI's
14 magazine and/or online website, namely, the name and address of the company and
15 contact person ("Contact Information"); that no other information in the Franchise
16 500[®] Database is made available to any third party through this list rental process;
17 and that, as indicated in paragraph 4 above, even the Contact Information is never
18 shared with, nor made available to, the marketer.

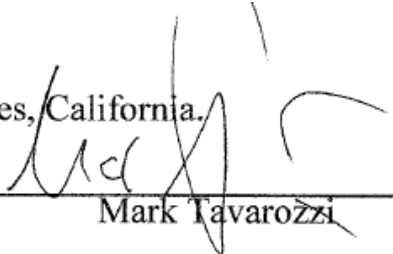
19 6. NextMark is an online datacard library, which allows marketers to
20 search for lists they may wish to rent. NextMark does not have possession of, nor
21 sell, rent or otherwise make available to third parties, any EMI Lists and in
22 particular the Franchise 500[®] Database. Rather, NextMark simply forwards third-
23 party requests for specific lists identified in its datacard library to the list managers
24 of those lists, which, in the case of a request to rent an EMI List, would be
25 Worldata.

26 I declare under penalty of perjury under the laws of the United States
27 of America that the foregoing is true and correct and that this declaration was

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executed on November 5, 2008, in Los Angeles, California.



Mark Tavarozzi

EXHIBIT A

LIST RENTAL AGREEMENT

This Agreement dated as of _____, 2008 (the “Effective Date”), shall have a term commencing on the Effective Date and ending 12- months thereafter day of _____, 2009 between _____ (hereinafter called LIST OWNER) and _____ (hereinafter called MAILER):

1. In consideration of the mutual covenants hereinafter contained, it is agreed as follows:

LIST OWNER hereby agrees to rent _____ (hereinafter called the “List”) to the MAILER for one time mailing only. The MAILER hereby covenants and agrees that he (it) will not transfer, duplicate, reproduce, or retain all or any portion of the List in any form whatsoever, nor permit any third party, agent, employee, or contractor and their agents and employees to do so.

2. MAILER acknowledges that:

- a. The List shall at all times remain the sole property of the LIST OWNER;
- b. The List is unique and cannot be readily compiled from materials generally available to the general public.

3. MAILER agrees not to disclose the list source or identify LIST OWNER in its mailing or other materials or in any other way. The parties agree that in the event of a breach of the provisions of this paragraph it will be impossible to ascertain definitively, the damage which may be sustained by LIST OWNER by reason thereof and accordingly and without prejudice to the LIST OWNER’S right to equitable relief, MAILER agrees to pay to LIST OWNER, as liquidated damages, an amount equal to ten times the rental price for the list transaction involved for each such breach.

4. The one-time use of the List shall be limited solely and exclusively to the agreed specific merchandise or service as offered and as described in the complete mailing sample attached hereto, or submitted in connection with this agreement, which sample must be approved by LIST OWNER prior to use of the List. MAILER agrees that no telephone solicitation to, or telephone follow up of the List will be made or permitted, except in the instance of those individuals who respond to the MAILER’S offer made on the one-time mailing.

5. MAILER agrees to indemnify and hold harmless LIST OWNER from any and all claims, damages, losses or expense, however incurred, occasioned by the use of the List contrary to the provisions of this Agreement by MAILER or any of those referred to above.
6. It is understood and agreed that the List has been and will be monitored to prevent improper and unauthorized use of the List, by a combination of one or more methods of computer control and/or planted and/or varied names and addresses, or combinations of these and others to all which MAILER consents and agrees.
7. Orders must be cancelled in writing at least five (5) days prior to cleared mail date. Orders cancelled after that period must be paid in full. Running charges must be paid if labels or tape was produced for a cancelled order.
8. MAILER guarantees full payment to LIST OWNER or its authorized agent on all list rentals of the List no later than 30 days after date of mailing or each List rented pursuant to this Agreement.
9. This Agreement shall be effective with respect to each rental of the List made to MAILER by LIST OWNER for a period of one year from date of this Agreement.
10. In the event of a breach or threatened breach of paragraphs 1, 3, and 4 of this Agreement, LIST OWNER, in addition to any other remedies it may have, shall have the right to equitable relief including an injunction restraining MAILER from breaching or further breaching such provisions, without a showing or proving any actual pecuniary damages sustained.

MAILER:

Print Name _____

Title _____

Company _____

Address _____

Phone _____

Email _____

Signature _____

Date _____

LIST OWNER:

Print Name _____

Title _____

Signature _____

Date _____

Job # _____
