

# EXHIBIT 9



1 **I. PRELIMINARY STATEMENT**

2 The Federal Bureau of Investigation has seized documents and materials potentially related to the  
 3 present action. As of the date of these responses, the FBI has not returned all of the seized materials to  
 4 Defendant, some of which may be responsive to Plaintiff's requests hereunder. Further, FBI Special  
 5 Agent Melanie Adams and Assistant United States Attorney Kyle F. Walding inform that Defendant is  
 6 the subject of a grand jury investigation and that it is anticipated that criminal charges will be filed.  
 7 Because Plaintiff has attempted to assert various claims under state and federal criminal statutes as well  
 8 as common law fraud, and seeks to conduct discovery with respect to the same via the subject requests  
 9 for production, Defendant hereby asserts his privilege against self-incrimination (as specifically set forth  
 10 below) under the Fifth Amendment to the United States Constitution (*United States v. Balsys* (1998) 524  
 11 U.S. 666, 672; *Lefkowitz v. Turley* (1973) 414 U.S. 70, 77); the Federal Rules of Evidence, Rule 501; the  
 12 California Constitution, Article 1, Section 15; and California Evidence Code section 940.

13 Defendant further objects because conducting discovery is premature and inappropriate at this  
 14 time. Upon the transfer of this action to the appropriate forum, Defendant intends to seek a stay of this  
 15 action (and/or any other appropriate relief), including a stay of all discovery in this matter, pending the  
 16 resolution of any potential criminal proceedings and/or until the statute of limitations on any such  
 17 criminal proceedings has run. To the extent Defendant determines that there is no longer a threat of  
 18 criminal prosecution, Defendant expressly reserves the right to withdraw his assertion of the privilege  
 19 against self-incrimination, to supplement his responses accordingly (in whole or in part), and to object to  
 20 the use or disclosure of the following responses, including the assertion of the privilege against self  
 21 incrimination, for any purpose whatsoever.

22 Defendant further objects to the subject discovery requests in that Defendant's Motion to Dismiss  
 23 Plaintiff's First Amended Complaint was granted with leave to amend as to Plaintiff's claims under the  
 24 Racketeer Influenced and Corrupt Organizations Act and other fraud-based claims, and discovery is  
 25 therefore premature. *Williams v. WMX Technologies, Inc.*, 112 F.3d 175, 178 (5th Cir. 1997) (in fraud  
 26 cases, the requisite elements must be adequately laid out "before access to the discovery process is  
 27 granted." (emphasis in original)).

28 /././

Defendant further objects to the definitions set forth in Plaintiff's requests; these objections include, but are not limited to, the following: "Hogan," "Hogan Entities," "Commission Junction," and "eBay" are compound, vague and ambiguous. The definition of "eBay" is further unduly burdensome and oppressive in that the phrases "eBay's internationally operated websites," and "any and all divisions, subdivisions, departments or subsidiaries of eBay" constitute information within Plaintiff's control and/or are unknown to Defendant. The definition of "Commission Junction" is unduly burdensome and oppressive in that the phrase "all parent organizations, divisions, subdivisions, departments or subsidiaries" reference information that is outside Defendant's control and/or is unknown to Defendant.

Defendant incorporates each of the foregoing objections in Defendant's responses below.

## **II. RESPONSES**

### **REQUEST FOR PRODUCTION NO. 1**

All documents relating to eBay, including all agreements, terms of service and terms and conditions.

#### **Response to Request for Production No. 1:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request seeks the production of documents which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because this request is vague and ambiguous. Defendant further objects because this request is overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

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**REQUEST FOR PRODUCTION NO. 2**

All documents relating to, or Communications with, eBay or any current or former employee of eBay.

**Response to Request for Production No. 2:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request seeks the production of documents which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because this request is vague and ambiguous. Defendant further objects because this request is overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

**REQUEST FOR PRODUCTION NO. 3**

All documents relating to payment of commissions or other revenue obtained by Hogan or Hogan Entities through participation in, interaction with or manipulation of eBay's Affiliate Marketing Program.

**Response to Request for Production No. 3:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand

1 may be construed to seek the production and inspection of documents which contain proprietary/  
 2 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further  
 3 objects because this request is vague and ambiguous. Defendant further objects because this request is  
 4 compound, overbroad, unduly burdensome and oppressive. Defendant further objects because this  
 5 request is argumentative with respect to its use of the term "manipulation." Further, Defendant  
 6 incorporates the above Preliminary Statement herein by reference in full.

7 **REQUEST FOR PRODUCTION NO. 4**

8 All documents relating to eBay's Affiliate Marketing Program, including, but not limited to, all  
 9 methods and technologies used by Hogan or Hogan Entities to obtain revenue from, manipulate or  
 10 otherwise interact with eBay's Affiliate Marketing Program, including, but not limited to, all software;  
 11 source code, Javascript, and HTML code.

12 **Response to Request for Production No. 4:**

13 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 14 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 15 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 16 Code section 940. Defendant further objects because this request may be construed to seek the  
 17 production and inspection of documents which are privileged from disclosure by the attorney-client  
 18 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
 19 may be construed to seek the production and inspection of documents which contain proprietary/  
 20 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further  
 21 objects because this request is vague and ambiguous. Defendant further objects because this request is  
 22 compound, overbroad, unduly burdensome and oppressive. Defendant further objects because this  
 23 request is argumentative with respect to its use of the term "manipulate." Further, Defendant  
 24 incorporates the above Preliminary Statement herein by reference in full.

25 **REQUEST FOR PRODUCTION NO. 5**

26 All documents relating to advertisements for eBay used, or purported to be used, on any website  
 27 or ad network that directed or referred Users to eBay as part of eBay's Affiliate Marketing Program.

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1 Response to Request for Production No. 5:

2       Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
3 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
4 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
5 Code section 940. Defendant further objects because this request may be construed to seek the  
6 production and inspection of documents which are privileged from disclosure by the attorney-client  
7 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
8 may be construed to seek the production and inspection of documents which contain proprietary/  
9 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further  
10 objects because this request is overbroad, not reasonably particularized, and seeks the production of  
11 documents which are neither relevant to the subject matter of this action, nor likely to lead to the  
12 discovery of admissible evidence. Defendant further objects because this request is vague and  
13 ambiguous. Defendant further objects because this request is unduly burdensome and oppressive.  
14 Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

15 **REQUEST FOR PRODUCTION NO. 6**

16       All documents reflecting the number of Users who allegedly clicked on an advertisement for  
17 eBay used, or purported to be used, by Hogan or Hogan Entities to direct or refer Users to eBay as part  
18 of eBay's Affiliate Marketing Program.

19 Response to Request for Production No. 6:

20       Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
21 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
22 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
23 Code section 940. Defendant further objects because this request may be construed to seek the  
24 production and inspection of documents which are privileged from disclosure by the attorney-client  
25 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
26 may be construed to seek the production and inspection of documents which contain proprietary/  
27 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further  
28 objects because this request is vague and ambiguous. Defendant further objects because this request is

1 overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary  
 2 Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 7**

4 All documents relating to methods or techniques intended to, or causing, a User's browser to load  
 5 any eBay webpage, webpage content or data therefrom.

6 **Response to Request for Production No. 7:**

7 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 8 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 9 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 10 Code section 940. Defendant further objects because this request may be construed to seek the  
 11 production and inspection of documents which are privileged from disclosure by the attorney-client  
 12 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
 13 may be construed to seek the production and inspection of documents which contain proprietary/  
 14 confidential information and/or trade secrets. Defendant further objects because this request is vague  
 15 and ambiguous. Defendant further objects because this request is overbroad, not reasonably  
 16 particularized, and unduly burdensome and oppressive. Further, Defendant incorporates the above  
 17 Preliminary Statement herein by reference in full.

18 **REQUEST FOR PRODUCTION NO. 8**

19 All documents sufficient to identify all advertising networks, advertising syndication services or  
 20 websites used or purportedly used by Hogan or Hogan Entities to advertise or promote eBay or to  
 21 interact in any way with eBay or eBay's Affiliate Marketing Programs.

22 **Response to Request for Production No. 8:**

23 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 24 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 25 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 26 Code section 940. Defendant further objects because this request may be construed to seek the  
 27 production and inspection of documents which are privileged from disclosure by the attorney-client  
 28 relationship and/or the attorney work product doctrine. Defendant further objects because this demand



1 may be construed to seek the production and inspection of documents which contain proprietary/  
 2 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further  
 3 objects because this request is vague and ambiguous. Defendant further objects because this request is  
 4 overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary  
 5 Statement herein by reference in full.

6 **REQUEST FOR PRODUCTION NO. 9**

7 All documents sufficient to identify all Affiliate Marketing Programs, not including eBay's  
 8 Affiliate Marketing Program, with whom Hogan or Hogan Entities obtained revenue or otherwise  
 9 interacted.

10 **Response to Request for Production No. 9:**

11 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 12 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 13 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 14 Code section 940. Defendant further objects because this request may be construed to seek the  
 15 production and inspection of documents which are privileged from disclosure by the attorney-client  
 16 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
 17 may be construed to seek the production and inspection of documents which contain  
 18 proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy.  
 19 Defendant further objects because this request seeks the production of documents which are neither  
 20 relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence.  
 21 Defendant further objects because this request is vague and ambiguous. Defendant further objects  
 22 because this request is overbroad, unduly burdensome and oppressive. Further, Defendant incorporates  
 23 the above Preliminary Statement herein by reference in full.

24 **REQUEST FOR PRODUCTION NO. 10**

25 All documents relating to and/or describing methods and techniques used by any other Affiliate  
 26 Marketing Program that Hogan or Hogan Entities interacted with, participated in or manipulated.

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1 Response to Request for Production No. 10:

2       Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 3 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 4 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 5 Code section 940. Defendant further objects because this request may be construed to seek the  
 6 production and inspection of documents which are privileged from disclosure by the attorney-client  
 7 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
 8 may be construed to seek the production and inspection of documents which contain  
 9 proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy.  
 10 Defendant further objects because this request is overbroad, not reasonably particularized, and seeks the  
 11 production of documents which are neither relevant to the subject matter of this action, nor likely to lead  
 12 to the discovery of admissible evidence. Defendant further objects because this request is vague and  
 13 ambiguous, and is argumentative with respect to its use of the term "manipulated." Defendant further  
 14 objects because this request is unduly burdensome and oppressive. Further, Defendant incorporates the  
 15 above Preliminary Statement herein by reference in full.

16 REQUEST FOR PRODUCTION NO. 11

17       All documents sufficient to identify the source of any technology, technique or method used by  
 18 Hogan or Hogan Entities to participate in, manipulate or interact with eBay Affiliate Marketing Program,  
 19 or any other Affiliate Marketing Program.

20 Response to Request for Production No. 11:

21       Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 22 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 23 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 24 Code section 940. Defendant further objects because this request may be construed to seek the  
 25 production and inspection of documents which are privileged from disclosure by the attorney-client  
 26 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
 27 may be construed to seek the production and inspection of documents which contain proprietary/  
 28 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further

objects because this request is overbroad, not reasonably particularized, and seeks the production of documents which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because this request is vague and ambiguous, and is argumentative with respect to its use of the term "manipulate." Defendant further objects because this request is compound, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

**REQUEST FOR PRODUCTION NO. 12**

All documents sufficient to identify any individuals, groups, books, manuals or other materials consulted by Hogan or Hogan Entities while developing any technology, technique or method used by Hogan or Hogan Entities while developing any technology, technique or method used by Hogan or Hogan Entities to participate in, manipulate or interact with the eBay Affiliate Marketing Program, or any other Affiliate Marketing Program.

**Response to Request for Production No. 12:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request is overbroad, not reasonably particularized, and seeks the production of documents which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because this request is vague and ambiguous, and is argumentative with respect to its use of the term "manipulate." Defendant further objects because this request is compound, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

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**REQUEST FOR PRODUCTION NO. 13**

All documents relating to Commission Junction, including all agreements, terms of service and terms and conditions.

**Response to Request for Production No. 13:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request is vague and ambiguous. Defendant further objects because this request is overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

**REQUEST FOR PRODUCTION NO. 14**

All documents relating to, or Communications with, Commission Junction or any current or former employee of Commission Junction.

**Response to Request for Production No. 14:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request is vague and ambiguous. Defendant further objects because this request is



1 overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary  
 2 Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 15**

4 All documents relating to, or Communications with, Digital Point Solutions, Inc., Kessler's  
 5 Flying Circus, Thunderwood Holdings, Inc., Dunning Enterprise, Inc. or briandunning.com.

6 **Response to Request for Production No. 15:**

7 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 8 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 9 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 10 Code section 940. Defendant further objects because this request may be construed to seek the  
 11 production and inspection of documents which are privileged from disclosure by the attorney-client  
 12 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
 13 may be construed to seek the production and inspection of documents which contain proprietary/  
 14 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further  
 15 objects because this request seeks the production of documents which are neither relevant to the subject  
 16 matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further  
 17 objects because this request is vague and ambiguous. Defendant further objects because this request is  
 18 compound, overbroad, and unduly burdensome and oppressive. Further, Defendant incorporates the  
 19 above Preliminary Statement herein by reference in full.

20 **REQUEST FOR PRODUCTION NO. 16**

21 All Communications with Todd Dunning or Brian Dunning.

22 **Response to Request for Production No. 16:**

23 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 24 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 25 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 26 Code section 940. Defendant further objects to the extent this demand violates the privacy rights of  
 27 Defendant and/or third parties. Defendant further objects because this request seeks the production of  
 28 documents which are neither relevant to the subject matter of this action, nor likely to lead to the



1 discovery of admissible evidence. Defendant further objects because this request is vague and  
 2 ambiguous. Defendant further objects because this request is overbroad, unduly burdensome and  
 3 oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

4 **REQUEST FOR PRODUCTION NO. 17**

5 All documents relating to, or Communications with, Rachael Hughes, or any companies or  
 6 entities owned, controlled, affiliated with or used by Rachael Hughes, relating to eBay's Affiliate  
 7 Marketing Program including, but not limited to, any agreements with Rachael Hughes and company  
 8 and any technology transferred to or from Rachael Hughes and company.

9 **Response to Request for Production No. 17:**

10 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 11 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 12 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 13 Code section 940. Defendant further objects because this request may be construed to seek the  
 14 production and inspection of documents which are privileged from disclosure by the attorney-client  
 15 relationship and/or the attorney work product doctrine. Defendant further objects because this request  
 16 seeks the production of documents which are neither relevant to the subject matter of this action, nor  
 17 likely to lead to the discovery of admissible evidence. Defendant further objects because this request is  
 18 overbroad, vague and ambiguous. Defendant further objects because this request is unduly burdensome  
 19 and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in  
 20 full.

21 **REQUEST FOR PRODUCTION NO. 18**

22 All documents sufficient to describe all phone numbers, email addresses, web pages, instant  
 23 messenger or mail accounts and social network accounts maintained, formerly maintained or registered  
 24 to Hogan or Hogan Entities.

25 **Response to Request for Production No. 18:**

26 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 27 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 28 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence

Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request is overbroad, not reasonably particularized, and seeks the production of documents which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because this request is vague and ambiguous. Defendant further objects because this request is compound, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

#### **REQUEST FOR PRODUCTION NO. 19**

Documents sufficient to identify any Aliases used by Hogan or Hogan Entities in any Internet Forum at or within which Hogan or Hogan Entities discussed any aspect of their participation in, manipulation of or interaction with eBay's Affiliate Marketing Program, or any other Affiliate Marketing Programs, including, but not limited to, forums such as blogs, listservs, Usenet newsgroups or chat rooms.

#### **Response to Request for Production No. 19:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request is overbroad, not reasonably particularized, and seeks the production of documents which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because this request is vague, ambiguous,

1 and argumentative. Defendant further objects because this request is unduly burdensome and oppressive.  
 2 Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 20**

4 Documents sufficient to identify any Internet Forum at or within which Hogan or Hogan Entities  
 5 discussed any aspect of their participation in, manipulation of or interaction with eBay's Affiliate  
 6 Marketing Programs, including, but not limited to, forums such as blogs, listservs, Usenet newsgroups or  
 7 chat rooms.

8 **Response to Request for Production No. 20:**

9 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 10 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 11 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 12 Code section 940. Defendant further objects because this request may be construed to seek the  
 13 production and inspection of documents which are privileged from disclosure by the attorney-client  
 14 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
 15 may be construed to seek the production and inspection of documents which contain  
 16 proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy.  
 17 Defendant further objects because this request is overbroad, not reasonably particularized, and seeks the  
 18 production of documents which are neither relevant to the subject matter of this action, nor likely to lead  
 19 to the discovery of admissible evidence. Defendant further objects because this request is vague,  
 20 ambiguous, and argumentative. Defendant further objects because this request is unduly burdensome  
 21 and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in  
 22 full.

23 **REQUEST FOR PRODUCTION NO. 21**

24 Documents sufficient to identify all internet service providers (ISPs) and IP addresses used by  
 25 Hogan or Hogan Entities.

26 **Response to Request for Production No. 21:**

27 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 28 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal

Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request is compound, overbroad, not reasonably particularized, and seeks the production of documents which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because this request is vague and ambiguous. Defendant further objects because this request is unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

#### **REQUEST FOR PRODUCTION NO. 22**

Documents sufficient to identify all computers, servers, electronic data storage and hosting companies, entities, or facilities used by Hogan or Hogan Entities.

#### **Response to Request for Production No. 22:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request is overbroad, not reasonably particularized, and seeks the production of documents which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because this request is vague and ambiguous. Defendant further objects because this request is unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.



**REQUEST FOR PRODUCTION NO. 23**

Documents sufficient to identify any entity used or hired to maintain or restore electronic data or systems relating to Hogan or Hogan Entities' participation in, manipulation of or interaction with eBay's Affiliate Marketing Program.

**Response to Request for Production No. 23:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this request may be construed to seek the production and inspection of documents which are privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further objects because this request is vague and ambiguous, argumentative, overbroad, and unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

**REQUEST FOR PRODUCTION NO. 24**

Documents sufficient to identify software used to clean, reformat or erase hard-drives used by Hogan or Hogan Entities, or any equipment owned, used or maintained by Hogan or Hogan Entities.

**Response to Request for Production No. 24:**

Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code section 940. Defendant further objects because this demand may be construed to seek the production and inspection of documents which contain proprietary/confidential information, trade secrets, and/or violates the privacy rights of Defendant and/or third parties. Defendant further objects because this request seeks the production of documents which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects



1 because this request is vague and ambiguous, overbroad, and unduly burdensome and oppressive.

2 Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 25**

4 All documents sufficient to identify all business entities or fictitious business names currently or  
5 formerly maintained by Hogan.

6 **Response to Request for Production No. 25:**

7 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
8 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
9 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
10 Code section 940. Defendant further objects because this request may be construed to seek the  
11 production and inspection of documents which are privileged from disclosure by the attorney-client  
12 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
13 may be construed to seek the production and inspection of documents which contain proprietary/  
14 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further  
15 objects because this request is overbroad, not reasonably particularized, and seeks the production of  
16 documents which are neither relevant to the subject matter of this action, nor likely to lead to the  
17 discovery of admissible evidence. Defendant further objects because this request is vague, ambiguous,  
18 and unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary  
19 Statement herein by reference in full.

20 **REQUEST FOR PRODUCTION NO. 26**

21 All documents relating to the incorporation of any Hogan Entities.

22 **Response to Request for Production No. 26:**

23 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
24 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
25 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
26 Code section 940. Defendant further objects because this request may be construed to seek the  
27 production and inspection of documents which are privileged from disclosure by the attorney-client  
28 relationship and/or the attorney work product doctrine. Defendant further objects because this request

1 seeks the production of documents which are neither relevant to the subject matter of this action, nor  
 2 likely to lead to the discovery of admissible evidence. Defendant further objects because this request is  
 3 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Further, Defendant  
 4 incorporates the above Preliminary Statement herein by reference in full.

5 **REQUEST FOR PRODUCTION NO. 27**

6 All documents filed by Hogan or Hogan Entities with any Secretary of State.

7 **Response to Request for Production No. 27:**

8 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 9 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 10 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 11 Code section 940. Defendant further objects because this request is overbroad, not reasonably  
 12 particularized, and seeks the production of documents which are neither relevant to the subject matter of  
 13 this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because  
 14 this request is vague, ambiguous, and unduly burdensome and oppressive. Further, Defendant  
 15 incorporates the above Preliminary Statement herein by reference in full.

16 **REQUEST FOR PRODUCTION NO. 28**

17 Documents sufficient to show the structure and organization of all Hogan Entities that were  
 18 involved in or interacted with any Affiliate Marketing Program.

19 **Response to Request for Production No. 28:**

20 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 21 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 22 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 23 Code section 940. Defendant further objects because this demand may be construed to seek the  
 24 production and inspection of documents which contain proprietary/confidential information, trade  
 25 secrets, and/or violates the privacy rights of Defendant and/or third parties. Defendant further objects  
 26 because this request is overbroad, not reasonably particularized, and seeks the production of documents  
 27 which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of  
 28 admissible evidence. Defendant further objects because this request is vague, ambiguous, and unduly

1 burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by  
2 reference in full.

3 **REQUEST FOR PRODUCTION NO. 29**

4 Documents sufficient to identify all employees, contractors or temporary employees of Hogan or  
5 Hogan Entities, their dates of employment, duties, salary and any other compensation.

6 **Response to Request for Production No. 29:**

7 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
8 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
9 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
10 Code section 940. Defendant further objects because this demand may be construed to seek the  
11 production and inspection of documents which contain proprietary/confidential information, trade  
12 secrets, and/or violates the privacy rights of Defendant and/or third parties. Defendant further objects  
13 because this request is overbroad, not reasonably particularized, and seeks the production of documents  
14 which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of  
15 admissible evidence. Defendant further objects because this request is vague, ambiguous, unduly  
16 burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by  
17 reference in full.

18 **REQUEST FOR PRODUCTION NO. 30**

19 All documents constituting any Hogan Entities' annual, quarterly and monthly audited, compiled,  
20 reviewed or unaudited financial statements, including all income statements and balance sheets of Hogan  
21 Entities.

22 **Response to Request for Production No. 30:**

23 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
24 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
25 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
26 Code section 940. Defendant further objects because this demand may be construed to seek the  
27 production and inspection of documents which contain proprietary/confidential information, trade  
28 secrets, and/or violates the right to privacy of Defendant and/or third parties. Defendant further objects

1 because this request is overbroad, not reasonably particularized, and seeks the production of documents  
 2 which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of  
 3 admissible evidence. Defendant further objects because this request is vague, ambiguous, and unduly  
 4 burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by  
 5 reference in full.

6 **REQUEST FOR PRODUCTION NO. 31**

7 All documents sufficient to identify all assets and financial accounts (including those outside of  
 8 the United States) maintained or formerly maintained by Hogan or Hogan Entities.

9 **Response to Request for Production No. 31:**

10 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 11 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 12 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 13 Code section 940. Defendant further objects because this demand may be construed to seek the  
 14 production and inspection of documents which contain proprietary/confidential information, trade  
 15 secrets, and/or violates the right to privacy of Defendant and/or third parties. Defendant further objects  
 16 because this request is overbroad, not reasonably particularized, and seeks the production of documents  
 17 which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of  
 18 admissible evidence. Defendant further objects because this request is vague, ambiguous, and unduly  
 19 burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by  
 20 reference in full.

21 **REQUEST FOR PRODUCTION NO. 32**

22 Documents constituting all Hogan Entities' tax returns for the years 2003 to the present.

23 **Response to Request for Production No. 32:**

24 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 25 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 26 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 27 Code section 940. Defendant further objects because this demand may be construed to seek the  
 28 production and inspection of documents which contain confidential financial information and/or violates



1 the right to privacy of Defendant and/or third parties. Defendant further objects because this request is  
 2 overbroad, not reasonably particularized, and seeks the production of documents which are neither  
 3 relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence.  
 4 Defendant further objects because this request is vague, ambiguous, and unduly burdensome and  
 5 oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

6 **REQUEST FOR PRODUCTION NO. 33**

7 Documents constituting Hogan's individual tax returns for the years 2003 to the present.

8 **Response to Request for Production No. 33:**

9 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 10 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 11 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 12 Code section 940. Defendant further objects because this demand may be construed to seek the  
 13 production and inspection of documents which contain confidential financial information and/or violates  
 14 Defendant's right to privacy. Defendant further objects because this request is overbroad and seeks the  
 15 production of documents which are neither relevant to the subject matter of this action, nor likely to lead  
 16 to the discovery of admissible evidence. Defendant further objects because this request is vague,  
 17 ambiguous, and unduly burdensome and oppressive. Further, Defendant incorporates the above  
 18 Preliminary Statement herein by reference in full.

19 **REQUEST FOR PRODUCTION NO. 34**

20 All documents relating to the transfer or assumption of any liability by Hogan or Hogan Entities.

21 **Response to Request for Production No. 34:**

22 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 23 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 24 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 25 Code section 940. Defendant further objects because this request may be construed to seek the  
 26 production and inspection of documents which are privileged from disclosure by the attorney-client  
 27 relationship and/or the attorney work product doctrine. Defendant further objects because this demand  
 28 may be construed to seek the production and inspection of documents which contain proprietary



1 /confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further  
 2 objects because this request is overbroad, not reasonably particularized, and seeks the production of  
 3 documents which are neither relevant to the subject matter of this action, nor likely to lead to the  
 4 discovery of admissible evidence. Defendant further objects because this request is vague, ambiguous,  
 5 and unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary  
 6 Statement herein by reference in full.

7 **REQUEST FOR PRODUCTION NO. 35**

8 All documents relating to any insurance policies relevant to this action.

9 **Response to Request for Production No. 35:**

10 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege  
 11 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal  
 12 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence  
 13 Code section 940. Defendant further objects because this request may be construed to seek the  
 14 production and inspection of documents which are privileged from disclosure by the attorney-client  
 15 relationship and/or the attorney work product doctrine. Defendant further objects because this request is  
 16 vague and ambiguous. Further, Defendant incorporates the above Preliminary Statement herein by  
 17 reference in full.

18 DATED: March 12, 2009

COAST LAW GROUP LLP

20 By: 

Ross M. Campbell

Attorneys for Defendants, Shawn Hogan  
 and Digital Point Solutions, Inc.