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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DEC 02 2005

JAMES R. LARSEN, CLERK
DEPUTY
RICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF WASHINGTON AT RICHLAND

James S. Gordon, Jr., Plaintiff,

vs,

Impulse Marketing Group, Inc.,

Defendant

Impulse Marketing Group, Inc.,

Third-Party Plaintiff,

v.

Emily Abbey,

Third-Party Defendant

Case No.: CV-04-5125-FVS

RESPONSE TO THIRD PARTY
PLAINTIFF'S MEMORANDUM
IN SUPPORT OF DEFENDANT
AND THIRD PARTY
PLAINTIFF'S MOTION TO
AMEND THIRD PARTY
COMPLAINT

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

INTRODUCTION

1
2 Impulse has made some minor changes to the language of its
3 amended complaint and re-submitted it for the third or fourth time to
4 this Court. Even with these changes, Impulse fails to state a claim for
5 which relief can be granted as no new cause of action or no new fact
6 which would entitle Impulse for relief was proffered.

7 In fact, without admitting the fraud and deceit attendant to
8 making fraudulent claims of prizes and money won, and then alleging
9 my alleged involvement in this fraud (their fraudulent activities pre-
10 existed any opt-in allegations made by Impulse), there can be no claim
11 for which relief can be granted as their claims to date are mere
12 sophistry.

13
14 The changes made to the complaint by Impulse include:

- 15 1. I no longer represented myself as myself, but rather the Plaintiff
16 misrepresented himself as me (and others). No facts were
17 proffered in support of that claim – a simple sign-up page with the
18 related sign-up data would be helpful, but if such a document
19 existed it would evidence the fraud of not fulfilling the alleged but
20 non-existent contract Impulse insists exists.
- 21 2. No facts are asserted by Impulse to support the claim of a
22 conspiracy, which Impulse alleges. The alleged conspiracy
23 concerns an alleged scheme to sue Impulse for sending commercial
24 email that allegedly violates RCW 19.190. The notion of re-

Causes of Action by Impulse vs Third Party Defendants

1 **Causes of Action by Impulse vs Third Party Defendants**
2 **Third party defendant re-asserts facts, claims, and information**
3 **made in her motion to dismiss presently before this Court. Based on**
4 **information and belief, Impulse lacks standing to assert rights and**
5 **claims and causes of actions, which are the prerogative of the as of yet**
6 **unnamed allegedly injured party, i.e. the party owning the web site that**
7 **Plaintiff allegedly opted-in at. If any injury was sustained by Impulse it**
8 **was the result of direct or indirect action or lack of action by its own**
9 **unnamed marketing partners. The rightful web page owners' silence on**
10 **these claims speaks to the temerity of Impulse in business as well as**
11 **law.**

12 **Lacking standing to assert a claim or cause of action on the behalf**
13 **of unnamed third party marketers for "indemnification and**
14 **contribution", "fraud and deceit," "tortious interference with business**
15 **relationships," "breach of contract," and "injunctive relief", Impulse fails**
16 **to state a claim for which it can be granted relief. As a result, Impulse's**
17 **lawsuit against me should be dismissed under FRCP 12(b)6 with**
18 **prejudice.**

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21
22 **Emily Abbey**

23 **1407 2nd Ave West Apt 608**

24 **Seattle, WA 98119**

25 **206-217-0466**

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Dated this 29st day of November, 2005

Emily H Abbey

Certificate of Service

I, hereby, certify that on December , 2005, I filed this response to amend third party complaint with this Court. I have served Douglas E. McKinley, Jr., Peter J. Glantz, Sean A. Moynihan, Floyd E. Ivey, Jamila Gordon, James Gordon III, Jonathan Gordon, Bonnie Gordon, and Robert Pritchett by mail and/or other means.