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

DEC 15 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.

Bonnie F. Gordon, Jamila Gordon,

James Gordon III, and Jonathan

Gordon, Third-Party Defendants

) Case No.: CV-04-5125-FVS
)
) CORRECTION TO
) REPLY/ RESPONSE TO
) DEFENDANT AND THIRD
) PARTY PLAINTIFF'S SECOND
) AMENDED THIRD PARTY
) COMPLAINT AND THIRD
) AFFIDAVIT OF THIRD-PARTY
) DEFENDANTS...AND
) RESPONSE TO THIRD PARTY
) PLAINTIFF'S MEMORANDUM
) IN SUPPORT OF DEFENDANT
) AND THIRD PARTY
) PLAINTIFF'S MOTION TO
) AMEND THIRD PARTY
) COMPLAINT OF BONNIE F.
) GORDON, JAMILA GORDON,
) JAMES S. GORDON III, AND
) JONATHAN GORDON

TO: Clerk of the Court

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

1 The following affidavit has been prepared to correct the assertion
2 made by third party defendants that Impulse has not alleged that it has
3 sent third party defendants gifts or prizes (Third Party Defendant's
4 RESPONSE TO THIRD PARTY PLAINTIFF'S MEMORANDUM IN
5 SUPPORT OF DEFENDANT AND THIRD PARTY PLAINTIFF'S
6 MOTION TO AMEND THIRD PARTY COMPLAINT, No. 3) and to
7 address the matter of "unclean hands".

8 Therefore, Third Party Defendant(s) declare(s) as follow(s):

- 9
- 10 1) We, individually, are, Bonnie F. Gordon, Jamila Gordon,
11 James Gordon III, and Jonathan Gordon - named third party
12 defendant in the above captioned lawsuit. We are each over the
13 age of 18 and are otherwise competent to testify.
 - 14 2) On page 5, line 9 of document 213 in the above-captioned case,
15 Impulse states that "...Third Party Defendants received free
16 products and/or services from the applicable Impulse-related
17 website while Impulse received inaccurate, untruthful, or
18 otherwise incomplete Subscriber Profiles in return...".
 - 19 3) For No.2 to be true, Impulse or its agents would have to have
20 had accurate and truthful subscriber profiles.
 - 21 4) We, individually, have NEVER received any money, gifts, or
22 prizes from any Impulse web site or web site purportedly
23 belonging to its agents. Even, if Impulse were to claim that all
24 the gifts and prizes were returned to them due to inaccurate
25 subscriber profiles, the third exhibit of third party defendants
Reply and 3rd Affidavit shows a few of the thousands of emails

1 which bear accurate subscriber profiles. Of the 200,000+ emails
2 have been sent to email addresses bearing the names of third
3 party defendants by Impulse and its agents, it is a very
4 reasonable assumption that not one of these emails has a false
5 or inaccurate profile as each reached its intended target – a
6 third party defendant. Daily, 100-200 more emails are added to
7 this growing number.

8 5) The statement in No. 2 is, therefore, false. Impulse, has made
9 other false certifications to this Court as noted by third party
10 defendants in prior filings with this Court.

11 6) Third Party Defendants' REPLY/ RESPONSE TO
12 DEFENDANT AND THIRD PARTY PLAINTIFF'S SECOND
13 AMENDED THIRD PARTY COMPLAINT AND THIRD
14 AFFIDAVIT OF THIRD-PARTY DEFENDANTS, BONNIE F.
15 GORDON, JAMILA GORDON, JAMES S. GORDON III, AND
16 JONATHAN GORDON contains an exhibit (#3), which shows
17 three instances of true and accurate subscriber profile
18 information – contrary to Impulse's false certifications.
19 Impulse's assertion of "fact" did not qualify or otherwise limit
20 the number of third party defendants who allegedly received
21 free gifts and/or prizes, in any way. As written, one would
22 assume that all third party defendants allegedly received gifts
23 and/or prizes. No.4 above refutes this false certification.

24 7) Impulse's claim regarding unclean hands, conveniently leaves
25 out the fact that its unwanted and illegal emails pre-date any
alleged opt-ins (the event which appears to have precipitated

1 the charge of unclean hands) allegedly made by third party
2 defendants. And its unclean hands pretext also leaves out the
3 fact that Impulse was sent scores of cease and desist
4 protestations - and its agents were sent thousands of
5 additional, similar messages – only to have all of these
6 communications ignored.

7 8) In light of the facts and information presented above, we trust
8 that this Court will dismiss all claims by Impulse under FRCP
9 12(b)6.

10 We, individually, declare under penalty of perjury under the laws
11 of the United States that the foregoing is true and correct.

12 We, individually, reserve the right to set forth affirmative
13 defenses and numerous counterclaims/causes of action against Impulse
14 and John Doe spammers – I/we demand a jury trial, in the event that
15 my/our motion to dismiss Impulse's lawsuit against third party
16 defendants is denied.

17
18
19 Bonnie F. Gordon
20 9804 Buckingham Drive
21 Pasco, WA 99301
22 509-210-1069

23 EXECUTED this 14th day of December, 2005.

24 
25

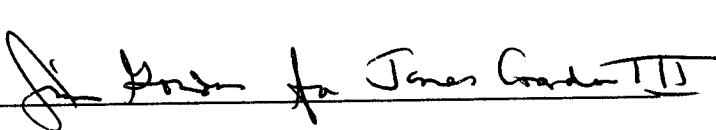
1 Jamila E. Gordon
2 9804 Buckingham Drive
3 Pasco, WA 99301
4 509-210-1069

5 EXECUTED this 14th day of December, 2005.

6 
7


8 James S. Gordon III
9 9804 Buckingham Drive
10 Pasco, WA 99301
11 509-210-1069

12 EXECUTED this 14th day of December, 2005.

13 
14

15 Jonathan K. Gordon
16 9804 Buckingham Drive
17 Pasco, WA 99301
18 509-210-1069

19
20 EXECUTED this 14th day of December, 2005.

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Certificate of Service

I/we, hereby, certify that on December 15, 2005, I/we filed this affidavit with this Court. I/we have served Douglas E. McKinley, Jr., Peter J. Glantz, Sean A. Moynihan, Floyd E. Ivey, Emily Abbey, and Robert Pritchett by mail and/or other means.

Ben Se

Jim Brady for James Gordon

Jim Brady for James Gordon III

John Kelly