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

MAR 28 2006

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
THIRD PARTY DEFENDANT'S
MOTION FOR TEMPORARY
INJUNCTION & DECLARATION
IN SUPPORT**

**TO: Clerk of the Court
AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff
AND TO: Peter J. Glantz and Sean A. Moynihan**

Introduction

1
2 In November 2004, the above captioned case was filed with this
3 Court. About six months ago, I was sued by Impulse in retaliation for
4 Plaintiff listing me as a prospective witness in his lawsuit. Earlier this
5 month, after the dismissal of my motion to dismiss, I filed an answer
6 and reply to that lawsuit. Impulse is still sending email to my mailbox.

Declaration

7
8 I, Emily Abbey, declare the following:

- 9 1) I am a named third party defendant in the above captioned
10 lawsuit. I am over the age of 18 and am otherwise competent to
11 testify.
- 12 2) I introduced evidence in my answer to this lawsuit and the
13 subsequent declarations in support thereof, which states that
14 Impulse knew that the "gordonworks.com" Internet domain
15 name was not to be sent email by Impulse or its affiliate
16 marketers – see Impulse's Kenneth Adamson's October 21,
17 2003 memo, wherein he states, "...this recipient is in a file of
18 blocked and/or suppressed recipients and will not receive mail
19 from any of our marketing partners".
- 20 3) On January 7, 2004, Robert Kane, CEO of Commonwealth
21 Marketing Group, Inc. of Uniontown, PA – the company which
22 hired Impulse to send email on its behalf warned the owner of
23 Impulse, Jeff Goldstein, "it is imperative that Impulse and any
24 Impulse affiliate marketers take every available step to assure
25 that no message of any kind be transmitted to the network

1 domain: "gordonworks.com". Impulse failed to comply with all
2 requests to stop sending "gordonworks.com" email ads.

- 3 4) On March 22, 2006, Impulse sent ten emails addressed to the
4 gordonworks.com domain. Two of those emails were addressed
5 to "emily@gordonworks.com". **Exhibit 1**
- 6 5) The continued email abuse of the "gordonworks.com" domain by
7 Impulse can not be justified by business necessity or any other
8 legitimate reason --- the only purpose these emails serve is to
9 harass, intimidate, and annoy me.
- 10 6) Impulse's lack of diligence in terms of its corporate obligations
11 to the public vis-à-vis honoring legitimate opt-out requests has
12 led to ongoing damages – financial damages as well as damage
13 to the "public trust" – these damages are ongoing and are due
14 solely to Impulse's actions or lack of action.
- 15 7) Impulse continues to profit from selling my personally
16 identifying information in spite of the current lawsuit citing
17 violations of RCW 9.35 – Identity Theft Statute and RCW
18 19.170- Free Prize Statute.
- 19 8) Impulse has acted with malice and oppression by forcing its
20 marketing ads on me and quite likely on hundreds, thousands,
21 or perhaps tens of thousands of Washington State residents.

22 **THEREFORE**, third party defendant moves this Court to issue an
23 order for a temporary injunction against Impulse Marketing Group, Inc.
24 (a Nevada corporation) doing business in the State of Georgia.
25

1 Specifically, the undersigned asks this Court to enjoin Impulse
2 and its agents, employees, directors, owners, contractors, and all others
3 acting on behalf of Impulse from sending email to me and to enjoin
4 Impulse from sending its email to all Washington State residents until
5 this lawsuit has been adjudicated. Impulse's reckless behaviors are
6 anathema to the "public trust" as it uses its business to harass,
7 intimidate and annoy individuals who complain about its marketing
8 practices. An injunction helps to preserve the public trust, especially as
9 this matter entails questions of identity theft and other public policy
10 concerns.

11 I declare under penalty of perjury under the laws of the United
12 States that the foregoing is true and correct.

13
14 Emily Abbey, Pro Se

15 1407 Second Avenue West, #608

16 Seattle, WA 98119

17 (206) 217-0466

18
19 EXECUTED this th day of March, 2006.

20 Judith Durl POA

21 Certificate of Service

22 I, hereby, certify that on March , 2006, I filed this motion with this
23 Court. I have served Bob Siegel, Peter J. Glantz, Sean A. Moynihan,
24 Floyd E. Ivey, Jamila Gordon, James Gordon III, Jonathan Gordon,
Bonnie Gordon, and Robert Pritchett by other means.

25 Judith Durl POA

X-Persona: <gordonworks.com>
 Return-Path: <emily@gordonworks.com>
 Delivered-To: 7-jim@gordonworks.com
 Received: (qmail 12832 invoked by uid 0); 22 Mar 2006 04:49:56 -0600
 Received: (qmail 5888 invoked from network); 22 Mar 2006 04:36:31 -0600
 Received: from mail2.banddly.com (66.59.94.14)
 by jaycelia.com with SMTP; 22 Mar 2006 04:36:16 -0600
 Message-ID: <3534898.1143023738255.JavaMail.root@banddly.com>
 Date: Wed, 22 Mar 2006 04:35:38 -0600 (CST)
 From: Free Card Search <card@banddly.com>
 Reply-To: Free Card Search <r-1516447-35879@banddly.com>
 To: "Emily Abbey" <emily@gordonworks.com>
 Subject: *****SPAM***** Your New Credit Line Has Been Approved Please Activate
 Mime-Version: 1.0
 Content-Type: multipart/alternative;
 boundary="====_Part_68784_8664828.1143023738254"
 X-CC: lzgkfkffgyokoyfwtsstsd ggyozodhhwytzfwg ohdzfthogz
 X-Spam-Flag: YES
 X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on gordonworks.com
 X-Spam-Level: *****
 X-Spam-Status: Yes, hits=16.5 required=7.0 tests=ADDR_FREE,BAD_CREDIT,
 BAYES_99,BEEN_TURNED_DOWN,COMPLETELY_FREE,FOR_FREE,
 HTML_IMAGE_RATIO_04,HTML_MESSAGE,HTML_TITLE_UNTITLED,NO_OBLIGATION,
 RCVD_IN_BL_SPAMCOP_NET,RCVD_IN_SBL autolearn=spam version=2.63
 X-Spam-Report:
 * 2.6 ADDR_FREE From Address contains FREE
 * 1.4 BEEN_TURNED_DOWN BODY: Have you been turned down?
 * 0.4 BAD_CREDIT BODY: Eliminate Bad Credit
 * 0.5 COMPLETELY_FREE BODY: No such thing as a free lunch (2)
 * 0.6 FOR_FREE BODY: No such thing as a free lunch (1)
 * 1.5 NO_OBLIGATION BODY: There is no obligation
 * 1.1 HTML_IMAGE_RATIO_04 BODY: HTML has a low ratio of text to image area
 * 0.1 HTML_MESSAGE BODY: HTML included in message
 * 5.4 BAYES_99 BODY: Bayesian spam probability is 99 to 100%
 * [score: 1.0000]
 * 0.4 HTML_TITLE_UNTITLED BODY: HTML title contains "Untitled"
 * 1.5 RCVD_IN_BL_SPAMCOP_NET RBL: Received via a relay in bl.spamcop.net
 * [Blocked - see <<http://www.spamcop.net/bl.shtml?66.59.94.14>>]
 * 1.1 RCVD_IN_SBL RBL: Received via a relay in Spamhaus Block List
 * [<<http://www.spamhaus.org/SBL/sbl.lasso?query=SBL30018>>]

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