

1 MERKLE SIEGEL & FRIEDRICHSEN, P.C.
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THE HON. FRED VANSICKLE

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

11
 12 James S. Gordon, Jr., Plaintiff,
 13 vs.
 14 Impulse Marketing Group, Inc.,
 15 Defendant
 16
 17 Impulse Marketing Group, Inc., Third-
 18 Party Plaintiff,
 19 v.
 20 Bonnie F. Gordon, Jamila Gordon,
 21 James Gordon III, and Jonathan
 22 Gordon, Third-Party Defendants

} Case No.: CV-04-5125-FVS
 }
 } CR 37 CERTIFICATION OF
 } COUNSEL IN SUPPORT OF
 } PLAINTIFF'S MOTION TO COMPEL
 }
 } [HEARING NOTED WITHOUT
 } ORAL ARGUMENT ON
 } AUGUST 24, 2006]
 }
 } [For Resolution By Discovery Master
 } The Hon. Harold D. Clarke]

23 TO: Clerk of the Court
 24 AND TO: Floyd E. Ivey, Sean Moynihan, Peter Glantz, Attorneys for Defendants.
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CR 37 CERTIFICATION OF COUNSEL IN
 SUPPORT OF PLAINTIFF'S FIRST MOTION

MERKLE SIEGEL & FRIEDRICHSEN, P.C.
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1 I, Robert J. Siegel, state and declare as follows:

2 1. I am the attorney for the plaintiff herein, and make this declaration in
3 support of Plaintiff's Motion To Compel.

4 2. Plaintiff's First Interrogatories and Requests for Production of
5 Documents were served on Defendants on March 2, 2006. (See **Exhibit "A"** to
6 Plaintiff's Motion).

7 3. Despite repeated demands, Defendants failed to respond or provide
8 any discovery responses until April 24, 2006. Defendant's initial responses were
9 grossly deficient, not a single discovery request answered substantively, posing
10 unfounded, boilerplate objections to each and every question! (See Defendants'
11 initial responses at **Exhibit "B"** to Plaintiff's Motion).

12 4. Consequently, on May 9, 2006 undersigned counsel initiated and held
13 an FRCP 37 discovery conference with counsel for Defendants. During that
14 conference both parties agreed to provide additional time to reconsider their
15 previous discovery responses, and to provide supplemental responses. Plaintiff
16 provided Defendants with his supplemental responses in the form of a more
17 detailed analysis of the offending emails. When finally received, Defendants'
18 supplemental responses were once again grossly deficient and non-responsive.
19 (See Defendants' Supplemental Responses at **Exhibit "C"** to Plaintiff's Motion).
20 Attached to Defendants' Supplemental Responses To Plaintiff's First Request For
21 Production Of Documents is the sum total of all documents produced by
22 Defendants. What should arguably be the production of boxes of documents, is
23 instead merely 14 pages, largely consisting of a *current* print out of its own terms
24 and conditions from its website.
25

CR 37 CERTIFICATION OF COUNSEL IN
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1 I declare under penalty of perjury under the laws of the State of Washington
2 that the above declaration is true and correct to the best of my knowledge and
3 belief.

4 MERKLE SIEGEL & FRIEDRICHSEN, P.C.



6 _____
7 Robert J. Siegel, WSBA #17312
8 Attorney for Plaintiff

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15 **Certificate of Service**

16 We, hereby, certify that on *July 24*, 2006, we filed this pleading with this Court.
17 The Clerk of the Court will provide electronic notification system using the
18 CM/ECF, which will send an electronic copy of this Notice to: Peter J. Glantz,
19 Sean A. Moynihan, and Floyd E. Ivey. I have served all non-CM/ECF participants
20 and third-party defendants by other means.

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