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THE HONORABLE FRED VAN  
 SICKLE

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

9 JAMES S. GORDON, JR,  
 an individual residing in  
 10 Benton County, Washington.

NO. CV-04-5125-FVS

11 Plaintiff,

DECLARATION OF ERIC CASTELLI IN  
 SUPPORT OF PLAINTIFF'S MOTION  
 TO DISMISS THIRD PARTY  
 DEFENDANTS

12 v.

Jury Trial Demanded

13 IMPULSE MARKETING GROUP,  
 14 INC.,  
 a Nevada Corporation

15  
 16 Defendants.  
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 19 Eric Castelli declares as follows:

- 20  
 21 1) I am a co-founder and Chief Technology Officer of LashBack LLC, a  
 22 Missouri Limited Liability Corporation. Lashback was formed in late  
 23 2003 to address the problems relating to the failure of email marketers to  
 24 honor consumer requests to unsubscribe, as required under the federal  
 25 CAN SPAM Act.  
 26 2) As a part of our service, LashBack currently monitors unsubscribe

1 compliance on over 600,000 email senders and is the leading authority in  
2 unsubscribe reputation. The Federal Trade Commission (FTC) has sought  
3 out LashBack's expertise to assist the FTC in complying with the FTC's  
4 reporting obligations under the federal CAN SPAM Act. Responsive to  
5 the FTC's inquiries, LashBack provided expert testimony in July 2005 on  
6 the effectiveness of and compliance with the CAN SPAM Act.

- 7 3) Impulse Marketing Group is included among the 600,000 email senders  
8 LashBack currently monitors unsubscribe compliance.
- 9 4) LashBack has been documenting Impulse Marketing Group's failure to  
10 comply with unsubscribe requests beginning in February 2004 through the  
11 date of this declaration.
- 12 5) During that time, LashBack has electronically documented over 100 cases  
13 where a consumer has attempted to unsubscribe from future Impulse  
14 Marketing Group advertisements, but has continued to receive  
15 advertisements from Impulse Marketing Group more than 10 business  
16 days after the date of the request, as required by the CAN SPAM Act.  
17 The most recent of these cases occurred August 8, 2005.
- 18 6) Also during this period, LashBack has electronically documented more  
19 than 1,000 cases of unsubscribe abuse by Impulse Marketing Group.  
20 Unsubscribe abuse occurs when a consumer submits their email address to  
21 an email advertiser or sender to unsubscribe, and rather than being  
22 removed from that parties send list, the consumer's email address is added  
23 to additional lists and begins to receive even more spam. These cases  
24 have continued up to the date of this declaration, with the most recent  
25 occurring on July 21, 2005.

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

EXECUTED this 10<sup>th</sup> day of August, 2005.



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Eric Castelli