

1 Liebler, Ivey, Conner, Berry & St. Hilaire
 2 By: Floyd E. Ivey
 3 1141 N. Edison, Suite C
 4 P.O. Box 6125
 5 Kennewick, WA 99336
 6 *Local Counsel for Defendants Impulse*
 7 *Marketing Group, Inc., Jeffrey Goldstein*
 8 *and Kenneth Adamson*

Hon. Fred Van Sickle

6 Klein, Zelman, Rothermel & Dichter, L.L.P.
 7 By: Sean A. Moynihan & Peter J. Glantz
 8 485 Madison Avenue, 15th Floor
 9 New York, NY 10022
 10 (212) 935-6020
 11 *Attorneys for Defendant Impulse*
 12 *Marketing Group, Inc., Jeffrey Goldstein*
 13 *and Kenneth Adamson*

11 **IN THE UNITED STATES DISTRICT COURT**
 12 **FOR THE EASTERN DISTRICT OF WASHINGTON**
 13 **AT RICHLAND**

13 James S. Gordon, Jr.,

14 Plaintiff,

15 v.

16 Impulse Marketing Group, Inc.,
 17 Jeffrey Goldstein, Phillip Huston,
 18 and Kenneth Adamson,
 19 Defendants.

Case No.: CV-04-5125-FVS

DEFENDANTS' MOTION FOR
SANCTIONS PURSUANT TO
FED. R. CIV. P. 11

19 Impulse Marketing Group, Inc.,
 20 Third-Party Plaintiff,

21 v.

22 Bonnie F. Gordon, Jamila Gordon,
 23 James Gordon, III, and Jonathan
 24 Gordon,
 25 Third-Party Defendants.

25 Defendants Impulse Marketing Group, Inc. ("Impulse"), Jeffrey Goldstein
 26 ("Goldstein") and Kenneth Adamson ("Adamson") (collectively, "Defendants"), by
 27

28 DEFENDANTS' MOTION FOR SANCTIONS - 1

KLEIN, ZELMAN, ROTHERMEL & DICHTER, L.L.P.
 485 MADISON AVENUE, 15TH FLOOR
 NEW YORK, NEW YORK 10022
 (212) 935-6020

00080589;1

1 and through their counsel, Klein, Zelman, Rothermel & Dichter, L.L.P., move the
2 Court for an order striking Plaintiff's unauthorized Second Amended Complaint and
3 awarding reasonable attorney's fees and imposing other sanctions that may be
4 appropriate against Robert J. Siegel, Merkle, Siegel & Friedrichsen, P.C., and James S.
5 Gordon for violating Federal Rule of Civil Procedure 11(b).

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

GROUNDS FOR MOTION

This motion will be made on the grounds that:

1. Plaintiff, by and through his counsel, Robert J. Siegel, wilfully and in bad
faith, filed a Second Amended Complaint without seeking leave of the Court or
consent of the opposing parties, in direct contradiction to the mandates of Fed. R. Civ.
P. 15.

2. This is the second unauthorized amendment Plaintiff has made to his
pleadings. The first occurring when he unilaterally amended the caption to include the
d/b/a Gordonworks.com as a Plaintiff in direct contradiction to this Court's May 2
Order.

3. Because the facts and law on this issue are so clearly undisputed and
indisputable, Defendants contend that the record clearly shows that the unauthorized
Second Amended Complaint was filed solely for the improper purpose of harassing
and punishing Defendants. In particular, the unauthorized Second Amended
Complaint was filed for the purpose of circumventing any potential decision of this
Court regarding Defendants' properly filed motion to dismiss the First Amended
Complaint and to require Defendants to expend time and money responding to the
unauthorized pleading.

4. As the Declaration of Sean A. Moynihan, Esq. establishes, as a result of
the filing of this unauthorized pleading and Plaintiff's pattern of misconduct,

1 Defendants have incurred substantial legal expenses.

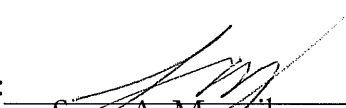
2 5. This motion and supporting papers were served on Robert J. Siegel, Esq.
3 on October 4, 2006, more than 21 days ago. However, Robert J. Siegel, Esq. has not
4 withdrawn the offending pleading during this time.

5
6 SUPPORT FOR MOTION

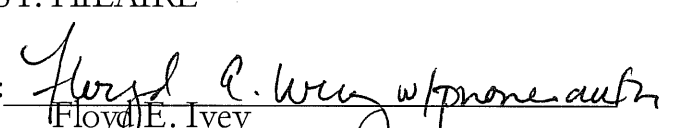
7 6. The legal arguments set out in this motion are more fully supported in the
8 attached Memorandum of Law. The facts on which the motion is based, and in
9 particular the unnecessary expenses that Defendants have suffered as a result of this
10 violation of Rule 11, are set forth in the Declaration of Sean A. Moynihan, Esq.
11 Defendants also ask this Court to take notice of the pleading and papers already on file
12 in this matter.

13 DATED this 8th day of November, 2006.

14
15 KLEIN, ZELMAN, ROTHERMEL
16 & DICHTER, L.L.P.


17
18 By: 
19 Sean A. Moynihan, admitted *pro hac vice*
20 Peter J. Glantz, admitted *pro hac vice*
Attorneys for Defendants Impulse Marketing
Group, Inc., Jeffrey Goldstein and Kenneth
Adamson

21
22 LIEBLER, CONNOR, IVEY, BERRY
& ST. HILAIRE

23
24 By: 
25 Floyd E. Ivey
26 Local Counsel for Defendants Impulse
Marketing Group, Inc., Jeffrey Goldstein and
Kenneth Adamson

Certificate of Service

I, hereby, certify that on November 8, 2006, I electronically filed this pleading with this Court. The Clerk of the Court will provide electronic notification using the CM/ECF system, which will send an electronic copy of Defendants' Motion for Sanctions and the Proposed Order Granting Sanctions to: Robert J. Siegel and Floyd Ivey. I hereby certify that I have served the forgoing to the following non-CM/ECF participants by other means: Bonnie Gordon; Jonathan Gordon; James S. Gordon, III; Robert Pritchett; Jamila Gordon; Emily Abbey and Hon. Harold D. Clarke, Jr.


Sean A. Moynihan, admitted *pro hac vice*
Attorneys for Defendants Impulse
Marketing Group, Inc., Jeffrey Goldstein
and Kenneth Adamson