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Hon. Fred Van Sickle

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 By: Sean A. Moynihan & Peter J. Glantz
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 Group, Inc., Jeffrey Goldstein and Kenneth Adamson*

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

12 James S. Gordon, Jr.,
 13 Plaintiff,
 14 v.
 15 Impulse Marketing Group, Inc.,
 Jeffrey Goldstein, Phillip Huston,
 16 and Kenneth Adamson,
 17 Defendants.

Case No.: CV-04-5125-FVS

REPLY DECLARATION OF
 SEAN A. MOYNIHAN, ESQ. IN
 SUPPORT OF DEFENDANTS'
 MOTION FOR SANCTIONS

18 Impulse Marketing Group, Inc.,
 19 Third-Party Plaintiff,
 20 v.
 21 Bonnie F. Gordon, Jamila Gordon,
 22 James Gordon, III, and Jonathan
 Gordon,
 23 Third-Party Defendants.

24 Sean A. Moynihan, an attorney and counselor at law duly licensed in the State of
 25 New York, now declares:
 26

27 REPLY DECLARATION OF SEAN A. MOYNIHAN, ESQ.
 28 IN SUPPORT OF DEFENDANTS' MOTION FOR SANCTIONS- 1

KLEIN, ZELMAN, ROTHERMEL & DICHTER, L.L.P.
 485 MADISON AVE., 15TH FL., NEW YORK, NY 10022

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1 1. I am a partner with the law firm of Klein, Zelman, Rothermel & Dichter,
2 L.L.P., counsel for Defendants Impulse Marketing Group, Inc. (“Impulse”), Jeffrey
3 Goldstein (“Goldstein”) and Kenneth Adamson (“Adamson”) (collectively,
4 “Defendants”) in the above-captioned action. I submit this reply declaration in
5 support of Defendants’ Motion for Sanctions. Except as to matters alleged below as
6 being upon information and belief, I am fully and personally familiar with the facts and
7 circumstances set forth herein.

8 2. On or about March 29, 2006, Plaintiff filed a motion seeking leave to file
9 a first amended complaint.

10 3. On or about May 2, 2006, this Court granted in part and denied in part
11 Plaintiff’s motion to amend his original complaint. In particular, the order denied
12 Plaintiff’s request to add new plaintiffs to the action.

13 4. On or about June 13, 2006, Plaintiff filed his First Amended Complaint,
14 and, in direct contradiction to the Court’s Order, counsel surreptitiously added “dba
15 Gordonworks.com” as a plaintiff in the action.

16 5. On or about August 31, 2006, Defendants moved to dismiss Plaintiff’s
17 First Amended Complaint on several grounds including, but not limited to, the
18 unauthorized amendment of the original complaint, lack of jurisdiction and failure to
19 state a claim upon which relief could be granted. In addition, Defendants concurrently
20 moved in the alternative for a more definite statement.

21 6. On or about September 11, 2006, Plaintiff filed a memorandum in
22 response to Defendants’ motion to dismiss the First Amended Complaint.
23 Simultaneously, therewith, and again without leave of Court, Plaintiff filed an
24 unauthorized Second Amended Complaint. The Second Amended Complaint
25 changed the caption yet again and made substantial material revisions to Plaintiff’s
26 factual allegations and causes of action.

1 7. On or about September 13, 2006, Defendants filed an objection to the
2 unauthorized Second Amended Complaint and returned the rejected pleading to
3 Plaintiff's counsel.

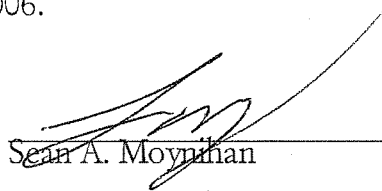
4 8. The motion for sanctions and supporting papers were served on Robert J.
5 Siegel, Esq. on October 4, 2006, more than 21 days ago.

6 9. On or about November 7, 2006, Defendants again wrote to Plaintiff's
7 counsel demanding that the unauthorized pleading be withdrawn from the record.

8 10. To date, Plaintiff's counsel has failed/refused to withdraw the offending
9 pleading, which remains on file with the Court.

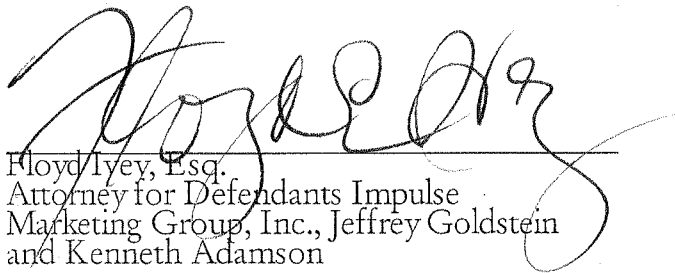
10 11. As a result of the filing of this unauthorized pleading and Plaintiff's
11 pattern of misconduct, Defendants have incurred substantial legal expenses.

12 DATED this 27th day of November, 2006.

13
14 
15 Sean A. Moynihan

Certificate of Service

I, hereby, certify that on November 27, 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 the Reply Declaration of Sean A. Moynihan, Esq. in Support of Defendants' Motion for Sanctions to: Robert J. Siegel and Sean Moynihan. 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.



Floyd Iyey, Esq.
Attorney for Defendants Impulse
Marketing Group, Inc., Jeffrey Goldstein
and Kenneth Adamson

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