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

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

Plaintiff,

vs.

IMPULSE MARKETING GROUP, INC.,  
a Nevada Corporation

Defendant.

)  
)  
)  
)  
) NO. CV-04-5125-FVS  
)  
) Declaration of James S. Gordon, Jr.  
) in Support of Plaintiff's Response to  
) Defendant's Motion to Dismiss  
) Plaintiff's Complaint

)  
) Jury Trial Demanded  
)  
)  
)

James S. Gordon, Jr., being duly sworn, deposes and says:

- 1) I am the plaintiff in the above captioned lawsuit.

Declaration of James S. Gordon, Jr. in 1  
Support of Plaintiff's Response to  
Defendant's Motion to Dismiss  
Plaintiff's Complaint

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- 2) Until the filing of this sworn statement, I have never communicated any information related to the specific emails that form the basis for my complaint to the defendants.
- 3) The first email from Impulse Marketing Group, Inc. (Impulse) was received on August 8, 2003. This email was sent to the email address sd@gordonworks.com. I never “opted in” to any email lists using this email, ever.
- 4) Subsequently, while researching online offers, I did enter the following email addresses ending in “gordonworks.com” to certain websites promising various free merchandise: james, faye, jamila, jay, jonathan, and emily; all @gordonworks.com. None of the free merchandise was ever received, and I subsequently asked that these organizations remove these email addresses from their lists in the winter of 2003/2004.
- 5) Despite my opting out, I have continued to receive emails from Impulse at these addresses.
- 6) I previously filed suit against Commonwealth Marketing Group, Inc. on December 15, 2003, in Benton County Superior Court (hereafter the “CMG suit”).
- 7) That suit was removed to the Federal District Court for the Eastern District of Washington.


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- 8) Throughout the time that the CMG suit was pending, I repeatedly proposed settlement terms to CMG.
- 9) During the course of these proposals, I repeatedly informed CMG in writing that it was my intention to bring suit against Impulse Marketing Group, Inc. at the conclusion of the CMG suit. I expressly reserved, in writing, the right to bring actions against any and all third parties who may have had any form of liability for sending or assisting in sending any e-mail messages or other forms of contact or communication. I further expressly included, in writing and without limitation, any persons, companies or entities who in the past or future acted on behalf of, under contract with, or otherwise at the direction of CMG, and including specifically Impulse Marketing Group, Inc. At no time, before, during or after these settlement proposals did I ever withdraw, recant, or otherwise retract this reservation of rights.
- 10) On October 20, 2004, at my request, the District Court for the Eastern District of Washington dismissed my complaint against CMG with prejudice.
- 11) The emails that form the basis for my lawsuit against Impulse include 494 emails sent by Impulse that offered products from companies other than CMG. I did not assert claims against CMG arising from these emails, as they were unrelated to CMG.

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12) The emails that form the basis for my lawsuit against Impulse include 89 emails sent by Impulse after the date the CMG suit was dismissed. I did not assert claims against CMG arising from these emails, as they did not exist at the time of the CMG suit or its dismissal.

13) On or about December 20, 2003, CMG received my complaint. Since that date, I have received at least 975 emails from Impulse.

DATED this 3<sup>rd</sup> day of February, 2005  
  
James S. Gordon, Jr.

SUBSCRIBED AND SWORN to before me this 3<sup>rd</sup> day of February, 2005

  
NOTARY PUBLIC  
Residing in the State of Washington

My Commission Expires:  
9/19/07

