

**U.S. Department of Justice****Office of Consumer Litigation**

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August 18, 2006

Via Federal Express

Robert S. Apgood  
CarpeLaw PLLC  
2400 NW 80th Street #130  
Seattle, WA 98117-4449

Re: United States v. Impulse Media Group., Case No. CV05-1285L

Dear Rob:

During the deposition of Seth Schermerhorn on August 10, 2006, Plaintiff United States of America attempted to question Mr. Schermerhorn regarding Government Exhibit 1. The Defendant objected to the Government's use of Government Exhibit 1 because page two of Exhibit 1 was a truncated spreadsheet. Based on the fact that the Defendant produced Government Exhibit 1 to the Plaintiff in the incomplete form and Plaintiff had requested a complete version of the spreadsheet prior to the deposition, the parties agreed that the Plaintiff would propound written questions regarding the complete Exhibit when it was produced by the Defendant and that Mr. Schermerhorn would answer Plaintiff's questions regarding the Exhibit. Please find the questions for Mr. Schermerhorn and the amended version of Exhibit 1 containing a complete version of the spreadsheet attached (now labeled Government Exhibit 31).

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren Hash".

Lauren Hash  
Trial Attorney

Enclosures

United States' Reply to  
Defendant's MSJ  
Exhibit 21  
CV 05-1285L  
Page 1 of 16

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**IMPULSE MEDIA GROUP, INC.,**  
a Washington corporation,

Defendant.

**No. CV05-1285L**

TO: Seth Schermerhorn  
FROM: UNITED STATES OF AMERICA  
DATED: August 18, 2005

Pursuant to the agreement reached between Lauren Hash and Robert Appgood on August 10, 2006, during the deposition of Seth Schermerhorn, Plaintiff United States of America hereby propounds the following questions upon Seth Schermerhorn regarding the attached Government Exhibit 31.

QUESTIONS

1. What is your company's basis for stating that the affiliates listed in the chart on page two of Government Exhibit 31 were terminated as a result of spam problems?

2. What documentation do you have supporting the assertion that the affiliates listed in the chart on page two of Government Exhibit 31 were terminated as a result of spam problems?
3. Were any records made of the termination of the affiliates listed in the chart on page two of Government Exhibit 31?
  - (a) If a record of the termination of any of the affiliates listed in the chart on page two of Government Exhibit 31 was made:
    - i) in what format was the record made?
    - ii) was the record produced to the Government during discovery?
    - iii) and if the record was produced to the Government during discovery what was the production number?
    - iv) and if the record was not produced to the Government during discovery, when will it be produced?
4. Were any of the affiliates listed in the chart on page two of Government Exhibit 31 terminated as a result of information provided to IMG by the Government?
5. Who made the decision to terminate the affiliates listed in the chart on page two of Government Exhibit 31?
6. Who notified the affiliates listed in the chart on page two of Government Exhibit 31 that they had been terminated?
7. What was the date of termination of each of the affiliates listed in the chart on page two of Government Exhibit 31?

- (a) If the date of termination is known, what is the basis of your knowledge of the date of termination for each affiliate listed in the chart on page two of Government Exhibit 31?
  - (b) If the date of termination is known, was a record of the date of termination made?
    - (i) If a record of the date of termination was made, where was the record of the date of the termination made?
8. Which affiliates listed in the chart on page two of Government Exhibit 31 were terminated as a result of notification by Swift Communications to IMG that the affiliate had generated spam complaints?
- a) If any affiliates listed in the chart on page two of Government Exhibit 31 were terminated as a result of notification by Swift Communications, was there any documentation regarding this notification from Swift Communications?
    - i) If there was any documentation regarding notification of terminated affiliates from Swift Communications, was the documentation produced to the Government during discovery?
    - iii) and if the notification was produced to the Government during discovery what was the production number?
    - iv) and if the notification was not produced to the Government during discovery when will it be produced?
9. For each affiliate identified in response to Question 8:
- (a) What were the circumstances of the notification by Swift Communications?
  - (b) who at IMG was notified by Swift Communications that the affiliate had generated spam complaints?

- (c) when was the notification by Swift Communications to IMG that the affiliate had generated spam complaints made?
- (d) what steps did IMG take after being notified by Swift Communications that the affiliate had generated spam complaints?
- (e) how long after the notification by Swift Communications that the affiliate had generated spam complaints did IMG terminate the affiliate?
10. Upon terminating the affiliate account matador, did IMG take any steps to determine if the affiliate who operated the account matador had any other IMG affiliate accounts?
- (a) If yes, did IMG shut down the other accounts operated by the same affiliate as the matador account?
- (i) when were the other accounts operated by the same affiliate as the matador account terminated?
11. Upon terminating the affiliate account dacash, did IMG take any steps to determine if the affiliate who operated the account dacash had any other IMG affiliate accounts?
- (a) If yes, did IMG shut down the other accounts operated by the same affiliate as the dacash account?
- (i) when were the other accounts operated by the same affiliate as the dacash account terminated?
- (b) Upon terminating the affiliate account dacash, did IMG terminate the affiliate account sc9yaman1?
- (i) If yes, when was the account sc9yaman1 terminated?
- (i) If no, is the account sc9yaman1 currently active?

12. Upon terminating the affiliate account scumbag, did IMG take any steps to determine if the affiliate who operated the account scumbag had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the scumbag account?

(i) when were the other accounts operated by the same affiliate as the scumbag account terminated?

(b) Upon terminating the affiliate account scumbag, did IMG terminate the affiliate account cracker?

(i) If yes, when was the account cracker terminated?

(i) If no, is the account cracker currently active?

13. Upon terminating the affiliate account olegwn, did IMG take any steps to determine if the affiliate who operated the account olegwn had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the olegwn account?

(i) when were the other accounts operated by the same affiliate as the olegwn account terminated?

14. Upon terminating the affiliate account euro2004, did IMG take any steps to determine if the affiliate who operated the account euro2004 had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the euro2004 account?

(i) when were the other accounts operated by the same affiliate as the euro2004 account terminated?

(b) Upon terminating the affiliate account euro2004, did IMG terminate the affiliate account sc9yaman1?

(i) If yes, when was the account sc9yaman1 terminated?

(i) If no, is the account sc9yaman1 currently active?

15. Upon terminating the affiliate account euro2005, did IMG take any steps to determine if the affiliate who operated the account euro2005 had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the euro2005 account?

(i) when were the other accounts operated by the same affiliate as the euro2005 account terminated?

(b) Upon terminating the affiliate account euro2005, did IMG terminate the affiliate account sc9yaman1?

(i) If yes, when was the account sc9yaman1 terminated?

(i) If no, is the account sc9yaman1 currently active?

16. Upon terminating the affiliate account spider, did IMG take any steps to determine if the affiliate who operated the account spider had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the spider account?

(i) when were the other accounts operated by the same affiliate as the spider account terminated?

(b) Upon terminating the affiliate account spider, did IMG terminate the affiliate account sc9yaman1?

(i) If yes, when was the account sc9yaman1 terminated?

(i) If no, is the account sc9yaman1 currently active?

17. Upon terminating the affiliate account teddybear, did IMG take any steps to determine if the affiliate who operated the account teddybear had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the teddybear account?

(i) when were the other accounts operated by the same affiliate as the teddybear account terminated?

(b) Upon terminating the affiliate account teddybear, did IMG terminate the affiliate account sc9yaman1?

(i) If yes, when was the account sc9yaman1 terminated?

(i) If no, is the account sc9yaman1 currently active?

18. Upon terminating the affiliate account scorpion, did IMG take any steps to determine if the affiliate who operated the account scorpion had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the scorpion account?

(i) when were the other accounts operated by the same affiliate as the scorpion account terminated?

(b) Upon terminating the affiliate account scorpion, did IMG terminate the affiliate account sc9yaman1?

(i) If yes, when was the account sc9yaman1 terminated?

(i) If no, is the account sc9yaman1 currently active?



19. Upon terminating the affiliate account montana, did IMG take any steps to determine if the affiliate who operated the account matador had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the montana account?

(i) when were the other accounts operated by the same affiliate as the montana account terminated?

20. Upon terminating the affiliate account megaporn, did IMG take any steps to determine if the affiliate who operated the account megaporn had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the megaporn account?

(i) when were the other accounts operated by the same affiliate as the megaporn account terminated?

(b) Upon terminating the affiliate account megaporn, did IMG terminate the affiliate account rds1979?

(i) If yes, when was the account terminated?

(i) If no, is the account rds1979 currently active?

21. Upon terminating the affiliate account cahek, did IMG take any steps to determine if the affiliate who operated the account cahek had any other IMG affiliate accounts?

(a) If yes, did IMG shut down the other accounts operated by the same affiliate as the cahek account?

(i) when were the other accounts operated by the same affiliate as the cahek account terminated?

mgrajales@ftc.gov, 09:58 AM 3/17/2005, Impulse Media

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To: mgrajales@ftc.gov  
From: Rob Appgood <rob@carpelaw.com>  
Subject: Impulse Media  
Cc:  
Bcc:  
Attached: S:\Matters\SoulCash\FTC\TerminatedAcccounts.pdf;  
S:\Matters\SoulCash\FTC\TerminatedRevenue.pdf;

Michelle,

Attached are the list of affiliates who were terminated as a result of SPAM problems, accompanied by a spreadsheet showing the revenue generated from those affiliates.

Impulse Media currently has no affiliates of whom it is aware that are conducting email compaigns.

Regards,

*Robert S. Appgood*  
<rob@carpelaw.com>  
206-624-2379



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Printed for Robert Appgood <rob@carpelaw.com>

PartnerSoft Admin Webmasters: Account Search

file:///F:/soulcash%20cancelled%20mailers.html

Webmasters: Account Search

ID / Password	Contact Name	City	State	Country	Email	Phone	Payto	Site	Signup Date	Status	Refer Account
macador / macador	Michael Martins	Toronto	Ont	UNITED STATES	michael@andersonchasegroup.co.uk	416-516-4006	Anderson Chase Group Ltd.		2002-10-16 00:00:00	T	David05
dgcash / pi@hrok	Dave Kelly	BeachmontKingstown	and the Grenadines	St. Vincent	maghdos25@yahoo.ca	(784) 458-3393	Maps Holding Inc.	jackydoeshome	2004-04-16 09:47:39	T	David05
scumbag / did099	Angelina Johnson	Anthem	AZ	USA	m222003@yahoo.com	602-717-3503	Angelina Johnson	Mailier	2004-05-07 16:03:09	T	David05
olegwn / ng31qGna	Oleg Nederev	Umassol	CY	Cyprus	olegwn@yahoo.com	+35799843430	Nederev Oleg	GavMicheCash.com	2004-05-20 10:50:48	T	David05
euro2004 / lseeyou	Dave Kelly	BeachmontKingstown	and the Grenadines	St. Vincent	maghdos25@yahoo.ca	(784) 458-3393	Maps Holding Inc.	johnnoeshome	2004-07-03 15:35:59	T	David05
euro2005 / lseeyou	Dave Kelly	BeachmontKingstown	and the Grenadines	St. Vincent	maghdos25@yahoo.ca	(784) 458-3393	Maps Holding Inc.	daveworlds	2004-07-03 15:36:14	T	David05
spider / webtrap	Dave Kelly	BeachmontKingstown	and the Grenadines	St. Vincent	maghdos25@yahoo.ca	(784) 458-3393	Maps Holding Inc.	daveworlds	2004-07-27 14:51:04	T	David05
teddybear / schoolsnucks	Dave Kelly	BeachmontKingstown	and the Grenadines	St. Vincent	maghdos25@yahoo.ca	(784) 458-3393	Maps Holding Inc.	johnnoeshome	2004-07-27 14:51:57	T	David05
scorpion / sandstorm	Dave Kelly	BeachmontKingstown	and the Grenadines	St. Vincent	maghdos25@yahoo.ca	(784) 458 3393	Maps Holding Inc.	amtam	2004-07-27 14:53:09	T	David05
montana / hustle	Tony Montana	Toronto	Ontario	Canada	tmontana@gmail.com	416-760-3467	Montana Marketing	Montana Marketing	2004-09-14 20:19:13	T	shawinc
megapom / mallkasa	YamboCS.com	Redmond	wa	USA	barkeeper@yahoo.com	206-309-0317	YamboCS.com	http://www.deneg.net	2004-12-01 16:51:45	T	David05
gabek / 123123	Alex D	Toronto	Ontario	Canada	sasha18@rogers.com	416-525-5419	PayPal	Opt In Emails	2005-01-19 12:54:21	T	sales002

SoulCash ID	Gross	Net	Affiliate Paid	Company Net
dacash	\$5,999.28	\$5,709.38	\$8,121.27	(\$2,411.89)
scumbag	\$3,339.50	\$3,204.87	\$4,775.50	(\$1,570.63)
olegwn	\$6,298.53	\$5,960.32	\$9,761.83	(\$3,801.51)
euro2004	\$721.54	\$614.96	\$1,086.42	(\$471.46)
euro2005	NO REVENUE	NO REVENUE		
spider	NO REVENUE	NO REVENUE		
teddybear	\$667.71	\$637.76	\$2,367.16	(\$1,729.40)
scorpion	\$1,114.43	\$1,008.37	\$2,057.00	(\$1,048.63)
montana	\$352.50	\$319.24	\$1,020.00	(\$700.76)
megaporn	\$651.36	\$571.51	\$2,035.00	(\$1,463.49)
cahek	\$29.95	\$4.05	\$280.00	(\$275.95)
shawinc	\$10,616.54	\$9,881.69	\$24,781.34	(\$14,899.65)
			<b>TOTAL NET:</b>	<b>(\$32,355.89)</b>

# CARPELAW<sup>PLLC</sup>

2400 NW 80<sup>th</sup> Street #130 Seattle, Washington 98117

Phone: 206-624-2379 Fax: 206-784-6305

carpelaw.com

**Robert S. Apgood**  
rob@carpelaw.com

September 8, 2006

## VIA ELECTRONIC MAIL AND U.S. MAIL

Lauren Hash  
U.S. Department of Justice  
Consumer Litigation Division  
P.O. Box 386  
Washington, D.C. 20044

**Re: Exhibit 31 Questions Responses**

Dear Ms. Hash:

Attached hereto are Mr. Schermerhorn's responses to your questions posed to him regarding Exhibit 31.

We apologize for the delay. When the questions were e-mailed to Mr. Schermerhorn, they were sent to an e-mail address that he no longer monitors due to the inordinate amount of spam e-mail that is sent to that address.

Sincerely,  
CARPELAW PLLC



Robert S. Apgood

Attachment

- 1.) Personal knowledge.
- 2.) We don't maintain documents regarding terminations.
- 3.) No records were made.
- 4.) No
- 5.) Seth Schermerhorn
- 6.) To deter fraud we don't notify terminated affiliates.
- 7.) We don't track that info.
- 8.) None
- 9.)
  - a. There was no notification from Swift Communications
  - b. There was no notification from Swift Communications
  - c. There was no notification from Swift Communications
  - d. There was no notification from Swift Communications
  - e. There was no notification from Swift Communications
- 10.) Yes
  - a. I don't recall.
    - i. There's no records kept for date of termination.
- 11.) Yes
  - a. Yes.
    - i. At the same time as the dacash account was cancelled.
    - b. I assume so.
      - i. I assume at the same time as the dacash account.
    - i. NA
- 12.) Yes
  - a. I don't recall.
    - i. NA
  - b. No
    - i. NA
    - i. Yes

13.) Yes

a. I don't recall

i. I don't think there where any.

14.) No this account was terminated upon dacash being terminated.

a. NA

i. I assume at the same time as the dacash account.

b. Yes

i. At the same time as dacash I assume

i. NA

15.) No this account was terminated upon dacash being terminated.

a. NA

i. I assume at the same time as the dacash account.

b. Yes

i. At the same time as dacash I assume

i. NA

16.)No this account was terminated upon dacash being terminated.

a. NA

i. I assume at the same time as the dacash account.

b. Yes

i. At the same time as dacash I assume

i. NA

17.)No this account was terminated upon dacash being terminated.

a. NA

i. I assume at the same time as the dacash account.

b. Yes

i. At the same time as dacash I assume

i. NA

18.)No this account was terminated upon dacash being terminated.

a. NA

i. I assume at the same time as the dacash account.

b. Yes

i. At the same time as dacash I assume

i. NA

19.) Yes

a. I don't recall there being any other accounts to terminate.

i. I don't recall

20.) Yes

a. I don't recall there being any other accounts to terminate.

i. I don't recall there being any other accounts to terminate.

b. no

i. NA

i. yes

21.) Yes

a. I don't recall there being any other accounts to terminate.

i. I don't recall there being any other accounts to terminate.