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THE HON. JOHN C. COUGHENOUR

9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON, SEATTLE

11 **JAMES S. GORDON, Jr., a married**
individual, d/b/a
12 **'GORDONWORKS.COM',**

13 **Plaintiff,**

14 v.

15 **VIRTUMUNDO, INC, a Delaware**
corporation, d/b/a
16 **ADNOWLEDGEMAIL.COM;**
17 **ADKNOWLEDGE, INC., a Delaware**
corporation, d/b/a
18 **ADKNOWLEDGEMAIL.COM;**
SCOTT LYNN, an individual; and
19 **JOHN DOES, I-X,**

20 **Defendants.**

NO. CV06-0204JCC

DECLARATION OF JAMES S.
GORDON, JR. IN SUPPORT OF
PLAINTIFF'S RESPONSE IN
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS

21 James S. Gordon, Jr. declares as follows:

- 22 1) I, James S. Gordon, Jr., am the Plaintiff in the above captioned lawsuit. I am
- 23 over the age of 18 and am otherwise competent to testify.
- 24 2) I am and have been a resident of Benton and Franklin Counties of
- 25 Washington State since January 1978.

DECLARATION OF JAMES S. GORDON, JR. IN SUPPORT
OF PLAINTIFF'S RESPONSE TO MOTION TO
DISMISS GORDON v. VIRTUMUNDO GROUP, INC.

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- 1 3) I received the first offending email from Defendants on or about August 21,
2 2003. The ad appears to have been sent on behalf of Full Spectrum Lending.
3 (See copy of email attached as **Exhibit "A" – entitled Email Source Code**).
4 This email is typical of, although not identical to the thousands of other emails
5 received from Virtumundo/Adknowledgemail.
- 6 4) I had no relationship whatsoever with Virtumundo, AdknowledgeMail, or with
7 Full Spectrum Lending prior to the receipt of this email. **(this next sentence**
8 **is not true - italicized)** *I have never "opted-in", "subscribed", or "co-*
9 *registered", in any manner with Virtumundo nor, to my knowledge, any of their*
10 *"affiliates", or "partners".*
- 11 5) In repeated attempts to obtain free prizes that various spammers' emails
12 claimed that I had won, I was tricked into "subscribing" (or "opting-in") to email
13 ads from Virtumundo and other spammers. **Exhibit "B"** and **Exhibit "C"** [B =
14 "You Have Already won email"] [C = email confirmation from Virtumundo –
15 dated 9/4/03]
- 16 6) Despite numerous requests and demands to cease and desist, I continued to
17 receive thousands of emails from Defendants through February 15, 2006.
- 18 7) I have sent approximately 200 direct email requests to Virtumundo to cease
19 and desist and to stop transmission of all email. (See example request at
20 **Exhibit "D" – Dear...Marketer letter/contract**). I sent those requests to:
21 abuse@virtumundo.com, legal@virtumundo.com,
22 postmaster@virtumundo.com, and webmaster@virtumundo.com addresses,
23 and to the return email addresses in the spam.
- 24 8) At all times during which Defendants sent commercial emails to me, my
25 address and residency as a Washington State resident was available to
Defendants through my internet domain registration for the domains at which
Defendants sent the offending emails.
- 9) I also registered my Washington state residency status for email addresses at
the WAISP.ORG registry (which is co-sponsored by the Washington state

1 Attorney General's Office and has been upheld in *State v. Heckel* as a proper
2 way to give notice to spammers that an email address was held by a
3 Washington state resident.

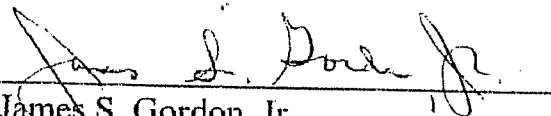
4 10) Despite these numerous attempts to stop spam from
5 Virtumundo/AdknowledgeMail I have received approximately 6,000 emails
6 from them!

7 11) In fact, despite the above, and hundreds of requests and demands to cease
8 and desist, Defendants continue to send unlawful spam to me!. See copies of
9 most recent spam from Defendants, attached hereto as **Exhibit "E"- Feb.
10 2006 email**

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

13 James S. Gordon, Jr.
14 9804 Buckingham Drive
15 Pasco, WA 99301
16 509-210-1069

17 EXECUTED this 29th day of March, 2006

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19 James S. Gordon, Jr.

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Certificate of Service

I, hereby, certify that on April 3, 2006, I filed this affidavit with this Court via approved electronic filing, and served the following:
Attorneys for Defendants: Peter J. Glantz, Sean A. Moynihan, Floyd E. Ivey,
Third Party Defendants: Jamila Gordon, Bonnie Gordon, James Gordon III, Jonathan Gordon, Emily Abbey, and Robert Pritchett by other means.


Adana Lloyd

DECLARATION OF JAMES S. GORDON, JR. IN SUPPORT OF PLAINTIFF'S RESPONSE TO MOTION TO DISMISS GORDON v. VIRTUMUNDO GROUP, INC.

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