

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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

Plaintiff,

v.

VIRTUMUNDO, INC, a Delaware corporation d/b/a ADNOWLEDGEMAIL.COM; ADKNOWLEDGE, INC., a Delaware corporation, d/b/a ADKNOWLEDGEMAIL.COM; SCOTT LYNN, an individual; and JOHN DOES, 1-X,

Defendants.

No. CV06-0204JCC

**[PROPOSED] ORDER
GRANTING DEFENDANTS'
MOTION TO DISMISS**

THIS MATTER comes before the Court on the Motion to Dismiss ("Motion") filed by Defendants. The Court having reviewed the pleadings on file, including the First Amended Complaint, the Response to the Motion and the Reply thereto hereby finds and orders that:

1. Plaintiffs fail to adequately identify the manner and form in which email messages allegedly sent by Defendants violate which elements of 15 U.S.C. 7705 *et seq.* ("CAN-SPAM") and the Washington Commercial Electronic Mail Act, RCW 19.190 *et seq.* ("CEMA") such that Defendants do

1 not have an opportunity to receive notice and an opportunity to respond.
2 Accordingly, Plaintiffs First and Second Causes of Action under CAN-SPAM
3 and CEMA are dismissed.

4 2. Plaintiffs Third Cause of Action pursuant to the Washington
5 Consumer Protection Act, RCW 19.86 is dismissed with prejudice.

6 3. Plaintiffs Fourth Cause of Action pursuant to the Washington
7 state law governing the promotional advertising of prizes, RCW 19.170 *et seq.*
8 is dismissed with prejudice.


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10 DATED this ___ day of _____, 2006.

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13 HON. JUDGE COUGHENOUR
14 SENIOR UNITED STATES DISTRICT JUDGE

15 Presented by:

16 **NEWMAN & NEWMAN,**
17 **ATTORNEYS AT LAW, LLP**

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19 By:


20 Derek A. Newman, WSBA #26967
21 Roger M. Townsend, WSBA #25525

22 Attorneys for Defendants Virtumundo, Inc.;
23 Adknowledge, Inc.; and, Scott Lynn
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