

1 Since the spam emails sent by Defendant violate Can-SPAM, they also violate CEMA. The
2 information in the "From lines" of the Defendant's spam violates 15 USC 7704(a)(1) because it
3 "contains, or is accompanied by, header information that is materially false or materially
4 misleading." As such, it also violates CEMA because information in the "from lines" is
5 supposed to identify the point of origin, and since the information in the "from lines" is
6 "materially false or misleading" it also "misrepresents or obscures any information in identifying
7 the point of origin." For the same reasons that the Court should rule that the spam emails sent by
8 Defendant violates CAN SPAM, the Court should also rule that the spam emails sent by
9 Defendant violates CEMA.
10

11 Damages

12 15 USC 7706(g)(3)(A)(ii) provides for damages of "up to \$100, in the case of a violation
13 of 5(a)(1)." Those damages may be tripled under 15 USC 7706(g)(3)(C)(i) "if the court
14 determines that the defendant committed the violation willfully or knowingly." 15 USC
15 7706(g)(4) provides that the court may require the payment of reasonable attorney fees. RCW
16 19.190.040(2) provides that "(d)amages to an interactive computer service resulting from a
17 violation of this chapter are one thousand dollars, or actual damages, whichever is greater."
18 Defendant Virtumundo is one of the largest and most sophisticated email marketing companies
19 in the world. Its conduct here was pervasive and intentional. If the words "willfully and
20 knowingly" are to have any meaning whatsoever, they must, at a minimum, apply to this
21 Defendant's conduct.
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23 For each spam email message sent to Gordon's ISP, Gordon is entitled to \$300 under
24 CAN SPAM (\$100 tripled), plus \$1,000 under CEMA, (\$1,000 + \$300 = \$1,300) or 7,890 times
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1 \$1,300 = \$10,257,000, plus attorney fees. Gordon therefore respectfully requests that the Court
2 enter an Order awarding Gordon judgment in the amount of ten million two hundred fifty-seven
3 thousand dollars, plus reasonable attorney fees.
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6 **RESPECTFULLY SUBMITTED** this 29th day of December, 2006.
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/S/ Robert J. Siegel
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Attorney for Plaintiffs

21 Certificate of Service

22 I, hereby, certify that on December 29, 2006, I filed this affidavit with this Court via
23 approved electronic filing, and served the following:
Attorneys for Defendants: Derek A. Newman, Newman & Newman .

24 
Adana Lloyd
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PLAINTIFFS' MOTION FOR PARTIAL SUMMARY
JUDGMENT
GORDON v. VIRTUMUNDO GROUP, INC., ET AL.
24

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