

ORIGINAL

The Honorable Ricardo Martinez

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

STATE OF WASHINGTON,

Plaintiff,

v.

AVTECH DIRECT, also doing business as AVTECH COMPUTERS and EDUCATIONAL PURCHASING SERVICES; ARLENE SEDIQZAD, also known as ARLENE GRANT and ARLENE HUNZIKER, manager of AVTECH DIRECT, individually and on behalf of her marital community; and GARY HUNZIKER, manager of AVTECH DIRECT, individually and on behalf of his marital community; MD&I CORPORATION, a California for-profit corporation; and MIN HUI ZHAO, also known as MICHAEL ZHAO, individually, and on behalf of his marital community,

Defendants.

NO. CV04-2171RSM

DECLARATION OF KERRY A. CHASE

I, Kerry A. Chase, declare as follows:

- I am over the age of eighteen (18), competent to make this declaration, and I am not a party this action.

Avtech/10194261
Chase-000000002

- 1 2. At all times relevant to the matters herein, I have been a resident of Medford
- 2 Massachusetts working at Tufts University as an Assistant Professor. I can be
- 3 contacted at 617-627-2661.
- 4 3. Since January 2004 through the present I have received unsolicited emails from Avtech
- 5 Direct almost every Monday, sometimes bi-weekly.
- 6 4. The first few times I received e-mails (example attached as Exhibit A) I clicked the
- 7 "unsubscribe" link to remove my address from the list, but the link was always dead.
- 8 After about four attempts I finally gave up on February 26, 2004 and filed a complaint
- 9 with the Federal Trade Commission.
- 10 5. Early on I also attempted to find a website for Avtech Direct through a Google search,
- 11 but was unsuccessful. I tried to call the 1-800 number in the email but my call went to
- 12 an automated answering service—there was no way to get a human being on the line.
- 13 6. On Monday October 4th 2004 after receiving another email from Avtech Direct,
- 14 (pages 6-8) (Exhibit B) I tried to unsubscribe and this time the unsubscribe link was working. I
- 15 thought I was successful but 14 days later on Monday October 18th I received another
- 16 email from Avtech Direct (pages 9-10) (Exhibit C).
- 17 7. This is an intrusion on my work time and resources. I have to keep my files clean to
- 18 avoid using up my space quota on the Tufts University server, which means I have to
- 19 delete these e-mails regularly. I have also spent several hours attempting to contact the
- 20 company, documenting my complaint to the Federal Trade Commission and the
- 21 Washington State Attorney General's office. I would estimate that over the course of 9

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Avtech/10194261
Chase-00000003

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months I have lost up to 10 hours—more than a full workday—simply attempting to get these constant harassing e-mails from one company to stop.

I hereby certify and declare under penalty of perjury under the laws of the United States of America and the State of Washington that the foregoing is true and correct.

DATED this 31st day of October, 2004.

Kerry A. Chase
KERRY A. CHASE

Medford, Massachusetts
(Location of Signing)

Haggerty-Shaw, MaryBeth (ATG)

To: Haggerty-Shaw, MaryBeth (ATG)
Subject: FW: AveTech Direct

-----Original Message-----

From: Kerry A. Chase [mailto:k.chase@tufts.edu]
Sent: Thursday, July 01, 2004 4:02 AM
To: Haggerty-Shaw, MaryBeth (ATG)
Subject: AveTech Direct

The original e-mail from AVTECH Direct is pasted below. I received many such spamming; this one is from February 26, 2004. The subject line was: "ADV: Attention All Teachers, School Staff, Students and Faculty." I have had no contact with anyone at Avtech Direct. I attempted to follow their unsubscribe url but it was a dead link.

----- Forwarded message from Admin <Administration@computerbizop.com> -----
Date: Thu, 26 Feb 2004 08:37:20 +0000 (GMT)
From: Admin <Administration@computerbizop.com>
Reply-To: Admin <Administration@computerbizop.com>
Subject: ADV: Attention All Teachers, School Staff, Students and Faculty:
To: k.chase@tufts.edu

Attention All Teachers School Staff, Students and Faculty:

You Must Respond By 5 P.M. Friday, February 27, 2004

Through a special arrangement, Avtech Direct is offering a limited allotment of BRAND NEW, top of-the-line, name-brand desktop computers at more than 50% off MSRP to all School Staff and Personnel who respond to this message before 5 P.M., Friday, February 27, 2004

All desktop computers are brand-new packed in their original boxes, and come with a full manufacturer's warranty plus a 100% satisfaction guarantee.

These professional grade Desktops are fully equipped with 2004 next generation technology, making these the best performing computers money can buy.

Avtech Direct is offering these feature rich, top performing Desktop Computers with the latest Intel technology at an amazing price to all School Staff, Students and Personnel who call:

1-800-884-9510 by 5 P.M. Friday, February 27, 2004

The fast and powerful AT-2400 series Desktop features:

- * Intel 2.0Ghz Processor for amazing speed and performance
- * 128MB DDR RAM, Upgradeable to 1024
- * 20 GB UDMA Hard Drive, Upgradeable to 80 GB
- * 52X CD-Rom Drive, Upgradeable to DVD/CDRW
- * 1.44 Floppy disk drive
- * Next Generation Technology
- * ATI Premium video and sound
- * Full Connectivity with Fax modem/Lan/IEE 1394/USB 2.0
- * Soft Touch Keyboard and scroll mouse
- * Internet Ready

- * Network Ready
- * 1 Year parts and labor warranty
- * Priority customer service and tech support

MSRP \$699 Your Cost \$297

How to qualify:

1. You must be a School Employee, Teacher, Student or Associate
2. All desktop computers will be available on a first come first serve basis.
3. You must call 1-800-884-9510 by 5 P.M. Friday, February 27, 2004 and we will hold the desktops you request on will call.
4. You are not obligated in any way.
5. 100% Satisfaction Guaranteed.

Call Avtech Direct
1-800-884-9510 before 5 P.M. Friday, February 27, 2004

If you wish to be removed for this list, please go to:
<http://www.techadvice.org/emails/remove.asp>
----- End forwarded message -----

----- End forwarded message -----

Haggerty-Shaw, MaryBeth (ATG)

From: Kerry A. Chase [k.chase@tufts.edu]
Sent: Monday, October 04, 2004 6:53 AM
To: Haggerty-Shaw, MaryBeth (ATG)
Subject: Fwd: ADV: Reminder: October 5, 2004

Right on schedule, as expected. I've copied the message source below and included the forwarded message. Hope this helps.

Kerry Chase

COPIED AND PASTED MESSAGE SOURCE:

Return-path: <reminder@computeradmin.org>
Received: from conversion-daemon.granite.tufts.edu by granite.tufts.edu (iPlanet Messaging Server 5.2 HotFix 1.25 (built Mar 3 2004)) id <0I520050159743@granite.tufts.edu> (original mail from reminder@computeradmin.org); Mon, 04 Oct 2004 07:35:26 -0400 (EDT)
Received: from basalt.usg.tufts.edu (basalt.usg.tufts.edu [130.64.1.201]) by granite.tufts.edu (iPlanet Messaging Server 5.2 HotFix 1.25 (built Mar 3 2004)) with ESMTPTS id <0I520027V5J1UL@granite.tufts.edu>; Mon, 04 Oct 2004 07:35:25 -0400 (EDT)
Received: from [200.243.189.2] (helo=SERVIDOR) by basalt.usg.tufts.edu with smtp (Exim 4.20) id 1CER7h-00023X-QC; Mon, 04 Oct 2004 07:35:22 -0400
Received: from 058.bqoo4j.net (HELO vdbfg10) ([69.141.64.6]) by SERVIDOR with ESMTPT id 82848560 for <enza.vescera@tufts.edu>; Mon, 04 Oct 2004 09:34:45 -0300
Date: Mon, 04 Oct 2004 09:34:45 +0000 (GMT)
From: Administrator <reminder@computeradmin.org>
Subject: ADV: Reminder: October 5, 2004
To: Enza.Vescera@tufts.edu
Message-id: <3-5ldf9h-i8---5p-ng94@hmkjhx77.2xgzz>
MIME-version: 1.0
X-Mailer: MIME-tools 5.503 (Entity 5.501)
Content-type: multipart/alternative;
boundary="Boundary_(ID_Jbz/lkGjleYgOltx+/ORlw)"
X-Priority: 1
X-MSMail-priority: High
X-Tufts-Spam-Report: SpamAssassin 2.63 (2004-01-11) on basalt.usg.tufts.edu
Spam hits=11.7,

tests=ADVERT_CODE,DATE_SPAMWARE_Y2K,MISSING_MIMEOLE,MISSING_OUTLOOK_NAME,SUBJ_H
AS_SPACES,X_MSMail_PRIORITY_HIGH,X_PRIORITY_HIGH
X-Spam-Score: (+++++) 11.7

This is a multi-part message in MIME format.

--Boundary_(ID_Jbz/lkGjleYgOltx+/ORlw)
Content-type: text/plain; CHARSET=us-ascii
Content-transfer-encoding: quoted-printable

END MESSAGE SOURCE

----- Forwarded message from Administrator <reminder@computeradmin.org> -----
Date: Mon, 04 Oct 2004 09:34:45 +0000 (GMT)
From: Administrator <reminder@computeradmin.org>
Reply-To: Administrator <reminder@computeradmin.org>
Subject: ADV: Reminder: October 5, 2004
To: Enza.Vescera@tufts.edu

You Must Respond By 5 P.M. Tuesday, October 5, 2004.

Through a special arrangement, Avtech Direct is offering a limited allotment of BRAND NEW, top of-the-line, name-brand desktop computers at more than 50% off MSRP to all Teachers, Students, Faculty and Staff, who respond to this message before 5 P.M., Tuesday, October 5, 2004.

All desktop are brand-new, packed in their original boxes, and come with a full manufacturer's warranty plus a 100% satisfaction guarantee.

These professional grade Desktops are fully equipped with 2004 next generation technology, making these the best performing computers money can buy.

Avtech Direct is offering these feature rich, top performing Desktop Computers with the latest Intel technology at an amazing price to all who call:

1-800-884-9510 by 5 P.M. Tuesday, October 5, 2004

The fast and powerful AT-2400 series Desktop features:

- * Intel 2.0Ghz Processor for amazing speed and performance
- * 128MB DDR RAM, --- Upgradeable to 1024
- * 20 GB UDMA Hard Drive, --- Upgradeable to 80 GB
- * 52X CD-Rom Drive, --- Upgradeable to DVD/CDRW
- * 1.44 Floppy disk drive
- * Next Generation Technology
- * ATI Premium video and sound
- * Full Connectivity with Fax modem/Lan/IEE 1394/USB 2.0
- * Soft Touch Keyboard and scroll mouse
- * Internet Ready
- * Network Ready
- * 1 Year parts and labor warranty
- * Priority customer service and tech support

MSRP \$699 Your Cost \$297

How to qualify:

1. You must be a Teacher, Student, Faculty or Staff Member.
2. All desktop computers will be available on a first come first serve basis.
3. You must call 1-800-884-9510 by 5 P.M. Tuesday, October 5, 2004 and we will hold the desktops you request on will call.
4. You are not obligated in any way.
5. 100% Satisfaction Guaranteed.

Call Avtech Direct 1-800-884-9510 before 5 P.M. Tuesday, October 5, 2004

Visit our website at <http://www.avtechdirectcomputers.com>

If you wish to unsubscribe from this list, please go to:
<http://www.computeradvice.org/unsubscribe.asp>

Avtech Direct
22647 Ventura Blvd., Suite 374
Woodland Hills, CA 91364

----- End forwarded message -----

Haggerty-Shaw, MaryBeth (ATG)

To: Haggerty-Shaw, MaryBeth (ATG)
Subject: FW: ADV: Staff Announcement

-----Original Message-----

From: Kerry A. Chase [mailto:k.chase@tufts.edu]
Sent: Monday, October 18, 2004 9:02 AM
To: Haggerty-Shaw, MaryBeth (ATG)
Subject: RE: ADV: Staff Announcement

Here is the extended header:

Return-path: <admin@staffadministrator.com>
Received: from conversion-daemon.granite.tufts.edu by granite.tufts.edu
(iPlanet Messaging Server 5.2 HotFix 1.25 (built Mar 3 2004))
id <0I5R00B01S1PRS@granite.tufts.edu>
(original mail from admin@staffadministrator.com); Mon,
18 Oct 2004 03:42:24 -0400 (EDT)
Received: from dacite.usg.tufts.edu (dacite.usg.tufts.edu [130.64.1.203])
by granite.tufts.edu
(iPlanet Messaging Server 5.2 HotFix 1.25 (built Mar 3 2004))
with ESMTPS id <0I5R0053DS2O9D@granite.tufts.edu>; Mon,
18 Oct 2004 03:42:24 -0400 (EDT)
Received: from [221.137.140.236] (helo=130.64.1.183)
by dacite.usg.tufts.edu with smtp (Exim 4.20) id 1CJS9t-00071T-cb;
Mon,
18 Oct 2004 03:42:23 -0400
Received: from o7.xh34q.com [100.164.197.158] by 130.64.1.183 with ESMTTP id
3D5E72EA3DD; Mon, 18 Oct 2004 08:38:41 +0000
Date: Mon, 18 Oct 2004 08:38:41 +0000 (GMT)
From: Administrator <admin@staffadministrator.com>
Subject: ADV: Staff Announcement
To: marcelo.bianconi@tufts.edu
Message-id: <i\$982a6-94\$-2\$-862-j@63zx9r4>
MIME-version: 1.0
X-Mailer: Microsoft Outlook Express 5.00.2615.200
Content-type: multipart/alternative;
boundary="Boundary_(ID_/HHBmbWKYvUijkAz5tielw)"
X-Priority: 1
X-MSMail-priority: High
X-Tufts-Spam-Report: SpamAssassin 2.63 (2004-01-11) on dacite.usg.tufts.edu
Spam hits=18.5,

tests=ADVERT_CODE,DATE_SPAMWARE_Y2K,FORGED_MUA_OUTLOOK,FORGED_RCVD_NET_HELO,MIS
SING MIMEOLE,RCVD_NUMERIC_HELO,SUBJ_HAS_SPACES,X_MSMAIL_PRIORITY_HIGH,X_PRIORIT
Y_HIGH
X-Spam-Score: (+++++) 18.5

This is a multi-part message in MIME format.

--Boundary_(ID_/HHBmbWKYvUijkAz5tielw)
Content-type: text/plain; CHARSET=us-ascii
Content-transfer-encoding: quoted-printable

Attention All School Staff: Teachers, Students and Faculty Members:

You Must Respond By 5 P.M. Tuesday, October 19, 2004.

Through a special arrangement, Avtech Direct is offering a limited

allotment of 2005 desktop computers at more than 50% off MSRP to all Teachers, Students, Faculty and Staff, who respond to this message before 5 P.M., Tuesday, October 19, 2004

All desktop computers are brand-new packed in their original boxes, and come with a full manufacturer's warranty plus a 100% satisfaction guarantee.

These professional grade Desktops are fully equipped with 2005 next generation technology, making these the best performing computers money can buy.

Avtech Direct is offering these feature rich, top performing Desktops with the latest technology at an amazing price to all who call:

1-800-795-8466 by 5 P.M. Tuesday, October 19, 2004

The fast and powerful AT-3200 series Desktop features:

- * IBM Processor for amazing speed and performance
- * 128MB DDR RAM, -- Upgradeable to 1024
- * 20 GB UDMA Hard Drive, -- Upgradeable to 80 GB
- * 52X CD-Rom Drive, -- Upgradeable to DVD/CDRW
- * Next Generation 2005 Technology
- * Premium video and sound -- For enhanced colors and graphics
- * Full Connectivity with Fax modem/Lan/IEE 1394/USB 2.0
- * Soft Touch Keyboard and scroll mouse
- * Internet Ready
- * Network Ready
- * 1 Year parts and labor warranty
- * Priority customer service and tech support

MSRP \$499 Your Cost \$227

How to qualify:

1. You must be a Teacher, Student, Faculty or Staff Member.
2. All desktop computers will be available on a first come first serve basis.
3. You must call 1-800-795-8466 by 5 P.M. Tuesday, October 19, 2004. and we will hold the desktops you request on will call.
4. You are not obligated in any way.
5. 100% Satisfaction Guaranteed.
6. Ask for Department C.

Call Avtech Direct
1-800-795-8466 before 5 P.M. Tuesday, October 19, 2004

Visit our website at <http://www.avtechdirectcomputers.com>

If you wish to unsubscribe from this list, please go to <http://www.computeradvice.org/unsubscribelink.asp>

Avtech Direct
22647 Ventura Blvd. Suite 374
Woodland Hills, CA 91364=

--Boundary_(ID_/HHBmbWKYvUijkAz5tielw)--