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THE HONORABLE FRED VAN
SICKLE

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6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF WASHINGTON
AT RICHLAND

9 JAMES S. GORDON, JR,
an individual residing in
10 Benton County, Washington.

11 Plaintiff,

12 v.

13 IMPULSE MARKETING GROUP,
14 INC.,
a Nevada Corporation

15
16 Defendants.

NO. CV-04-5125-FVS

DECLARATION OF ERIC CASTELLI IN
SUPPORT OF PLAINTIFF'S MOTION
TO DISMISS THIRD PARTY
DEFENDANTS

Jury Trial Demanded

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19 Eric Castelli declares as follows:

- 20
21 1) I am a co-founder and Chief Technology Officer of LashBack LLC, a
22 Missouri Limited Liability Corporation. Lashback was formed in late
23 2003 to address the problems relating to the failure of email marketers to
24 honor consumer requests to unsubscribe, as required under the federal
25 CAN SPAM Act.
26 2) As a part of our service, LashBack currently monitors unsubscribe

1 compliance on over 600,000 email senders and is the leading authority in
2 unsubscribe reputation. The Federal Trade Commission (FTC) has sought
3 out LashBack's expertise to assist the FTC in complying with the FTC's
4 reporting obligations under the federal CAN SPAM Act. Responsive to
5 the FTC's inquiries, LashBack provided expert testimony in July 2005 on
6 the effectiveness of and compliance with the CAN SPAM Act.

- 7 3) Impulse Marketing Group is included among the 600,000 email senders
8 LashBack currently monitors unsubscribe compliance.
- 9 4) LashBack has been documenting Impulse Marketing Group's failure to
10 comply with unsubscribe requests beginning in February 2004 through the
11 date of this declaration.
- 12 5) During that time, LashBack has electronically documented over 100 cases
13 where a consumer has attempted to unsubscribe from future Impulse
14 Marketing Group advertisements, but has continued to receive
15 advertisements from Impulse Marketing Group more than 10 business
16 days after the date of the request, as required by the CAN SPAM Act.
17 The most recent of these cases occurred August 8, 2005.
- 18 6) Also during this period, LashBack has electronically documented more
19 than 1,000 cases of unsubscribe abuse by Impulse Marketing Group.
20 Unsubscribe abuse occurs when a consumer submits their email address to
21 an email advertiser or sender to unsubscribe, and rather than being
22 removed from that parties send list, the consumer's email address is added
23 to additional lists and begins to receive even more spam. These cases
24 have continued up to the date of this declaration, with the most recent
25 occurring on July 21, 2005.

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

EXECUTED this 10th day of August, 2005.



Eric Castelli