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Attorney for Plaintiff

14
15 **UNITED STATES DISTRICT COURT FOR THE**
16 **EASTERN DISTRICT OF WASHINGTON**

17 JAMES S. GORDON, JR.,
18 Plaintiff,
19 vs.
20 IMPULSE MARKETING GROUP,
INC.,
21 Defendant

No. CV-04-5125-FVS

DECLARATION OF FLOYD E. IVEY
IN SUPPORT OF DEFENDANT'S
MOTION TO COMPEL AND FOR
SANCTIONS

22 _____
23 IMPULSE MARKETING GROUP,
INC.,
24 Third-Party Plaintiff,
25 vs.
26 BONNIE GORDON, et al.,
27 Third-Party Defendants.

1 I am counsel representing Defendant. On December 23, 2006 I mailed
2 Defendant's First Interrogatories and Defendant's First Request for Production of
3 Documents to Plaintiff. On February 15, 2006 I sent a request by fax and email
4 for Plaintiff's responses to discovery by Friday, February 24, 2006 or in the
5 alternative for a conference pursuant to LR 37.1. Plaintiff counsel Mr. McKinley
6 called to advise that he would be withdrawing or substituted. Plaintiff later called
7 to indicate that the substitution should be accomplished by Friday, February 17,
8 2006.

9 There has been no substitution and counsel for Plaintiff has not called to
10 confer re: discovery.

11 Defendant requests Sanctions per FRCP 37(a)(4), for time expended in
12 contacting Plaintiff counsel re: responses, for time, in drafting Defendant's Motion
13 to Compel and Motion to Expedite and associated documents, of 2.5 hours at
14 \$265/hour for a total of \$662.50.

15 Defendant requests that Plaintiff be required to fully respond to Defendant's
16 Discovery by Wednesday, March 8, 2006.

17 I declare that the foregoing is true and correct.

18 Signed at Kennewick, Washington, this 21st day of February, 2006.

19 /s/ FLOYD E. IVEY
20

21 _____
22 Floyd E. Ivey
23
24

25 I hereby certify that on February 21, 2006, I electronically filed **Declaration**
26 **of Floyd E. Ivey in Support of Defendant's Motion to Compel and for**
27 **Sanctions** with the Clerk of the Court using the CM/ECF System which will send
28 notification of such filing to Douglas E. McKinley, Jr., Peter J. Glantz and Sean A. Moynihan. I hereby certify that I have served the foregoing to the following non-CM/ECF participants by other means: Bonnie Gordon, Jonathan Gordon, James S.

1 Gordon, III, Robert Pritchett, Jamila Gordon and Emily Abbey.

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S/ FLOYD E. IVEY
FLOYD E. IVEY

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Intellectual Property

Floyd E. Ivey *

Registered Patent Attorney

Patents, Trademarks, Copyrights, Kennewick, Washington 99336-0125

Licensing, Litigation and Other

Intellectual Property Matters

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February 15, 2006

Via Email and Fax Only - 628-2307

Douglas E. McKinley, Jr.

Attorney at Law

P.O. Box 202

Richland, WA 99352

Re: Gordon v. Impulse Marketing Group Inc.–Discovery

Dear Doug:

Defendant's First Interrogatories and Requests for Production were mailed December 23, 2005. Responses were due January 25, 2006.

I acknowledge your advice re: withdrawal from another case with related issues. I am not aware that you intend to withdraw from this matter.

First, re: providing responses - I ask if you can assure, and preferably guarantee, that you can deliver responses next week by Thursday, February 24, 2006.

Second, if you cannot make responses by the 24th, I ask that we confer, in accordance with LR 37.1(b) by 5p.m. today, Thursday afternoon or Friday morning or afternoon.

You can reach me at both the office 735 3581 or cell 948 0943. Thank you.

Yours very truly,

/s/ FLOYD E. IVEY

FLOYD E. IVEY

FEI:gs

cc:Moynihan, Glantz by email

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