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7 **Attorney for Plaintiff, ASIS INTERNET SERVICES**

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 **ASIS INTERNET SERVICES,**)
11 **Plaintiff,**)
12 **vs.**)
13 **OPTIN GLOBAL, INC., a Delaware**)
14 **Corporation, also dba Vision Media Limited**)
15 **Corp., USA Lenders Network, USA Lenders,**)
16 **and USA Debt Consolidation Service; et al.,**)
17 **Defendants.**)

Case No. C-05-5124 JCS
DECLARATION OF RICHARD E. GRABOWSKI IN SUPPORT OF OPPOSITION TO DEFENDANT'S MOTION FOR RULE 11 SANCTIONS
DATE: November 2, 2007
TIME: 9:30 A.M.
CTRM: A, 15TH FLOOR

18 I, RICHARD E. GRABOWSKI , declare as follows:

19 1. I am an attorney duly licensed to practice in the United States District Court,
20 Northern District of California, and I am one of the attorneys of record for Plaintiff. I have
21 personal and firsthand knowledge of each fact hereinafter set forth and if called to testify could
22 and would competently testify to the matters set forth herein.

23 2. Attached hereto as Exhibit "A" is a true and correct copy of the Declaration of
24 Josh Mohland with Exhibits A, D, E, F, and G as prepared and submitted to Defendant with
25 Plaintiff's Response to Court Ordered Interrogatories (Defendant's Fifth Set of Interrogatories).

26 3. Attached hereto as Exhibit "B" is a true and correct copy of Plaintiff's Expert
27 Witness Disclosure and Declaration of Jeffrey Posluns.

28 4. Attached hereto as Exhibit "C" is a true and correct copy of Plaintiff's List of

1 Closed/Inactive email addresses. This Exhibit is being submitted Under Seal as it contains
2 Plaintiff's Confidential Consumer Information.

3 5. Attached hereto as Exhibit "D" is a true and correct copy of the Declaration of
4 Carl Scoles re Supplemental Disclosure Six Amended and attached Exhibit A.

5 6. Attached hereto as Exhibit "E" is a true and correct copy of Declaration of Carl
6 Scoles (2) and attached Exhibits A, B, C, D, and E as prepared and submitted to Defendant
7 with Plaintiff's Response to Court Ordered Interrogatories as Exhibit H (Defendant's Fifth Set
8 of Interrogatories).

9 7. Attached hereto as Exhibit "F" is a true and correct copy of two emails received
10 at Plaintiff's servers. The wumort.net and wumort.com emails are exactly the same in
11 appearance, even to the point of the same misspellings, except for the different senders,
12 recipients and URL link. This Exhibit is being submitted Under Seal as it contains Plaintiff's
13 Confidential Consumer Information.

14 8. Attached hereto as Exhibit "G" is a true and correct copy of production
15 documents provided by Defendant Quicken Loans, being pages QL 17, 23, 24, 84, and 116.
16 Pages 17, 23, and 24 of this Exhibit are being submitted Under Seal as it has been designated
17 Confidential by Defendant Quicken Loans.

18 9. Attached hereto as Exhibit "H" is a true and correct copy of Defendant Azoogole's
19 Response to Plaintiff's First Set of Special Interrogatories, page 15 – Interrogatory No. 9.

20 10. Attached hereto as Exhibit "I" is a true and correct copy of Defendant Azoogole's
21 production and disclosure documents, pages AZ 000005-7, 000012, 000018-22, 000125,
22 000131-133. This Exhibit is being submitted Under Seal as it has been designated
23 Confidential by Defendant Azoogole.

24 11. Attached hereto as Exhibit "J" is a true and correct copy of portions of the
25 Deposition Transcript of Julian Mossanen, pages 30, 56, 59-61, 63, 95-106, 112-118, 125-126,
26 129. This Exhibit is being submitted Under Seal as it has been designated Confidential by
27 Defendant Azoogole.

28 12. Attached hereto as Exhibit "K" is a true and correct copy of portions of the

1 Deposition Transcript of Donald H. Mathis, pages 193-194, 268-269, 306-307, and Exhibits 7
2 and 8. This Exhibit is being submitted Under Seal as it has been designated Confidential by
3 Defendant Azoogole.

4 13. Attached hereto as Exhibit "L" is a true and correct copy of production documents
5 submitted in response to Civil Subpoena for Documents from Lendance, Inc., a named third
6 party vendor of Azoogole.

7 14. Attached hereto as Exhibit "M" are true and correct copies of production
8 documents submitted in response to Civil Subpoenas for Documents from Leadflash, LLC,
9 Lendance, Inc., RN Acquisitions, dba Respond.com, and eMarketsource.com.

10 15. Attached hereto as Exhibit "N" is a true and correct copy of an internet blog dated
11 May 2005, when Alex Zhardanovsky, founder of Azoogole.com, was accused of mortgage
12 refinance spamming using the same house image on a blog linking to the Azoogole.com image.
13 The archive of the blog can be found at [http://www.webservertalk.com/archive154-2005-5-](http://www.webservertalk.com/archive154-2005-5-1074010.html)
14 [1074010.html](http://www.webservertalk.com/archive154-2005-5-1074010.html).

15 16. Attached hereto as Exhibit "O" is a true and correct copy of portions of
16 documents submitted in *FTC vs. Optin Global*, USDC, Northern District of California No. C-05-
17 1502 SC, as Exhibits to Docket #26 filed manually under Docket #6.

18 17. Attached hereto as Exhibit "P" is a true and correct copy of a production
19 document submitted in response to Civil Subpoena for Documents by Savvis. In September
20 2004, one month prior to the date on the emails produced by the FTC in the *FTC v. Optin*
21 *Global* case, Azoogole.com received a complaint from their Internet Service Provider, Savvis.
22 This complaint was routed from SpamCop and concerned Azoogole's "Spamvertised web site:
23 <http://www.lowrateadvisors.com....>"

24 18. Attached hereto as Exhibit "Q" is a true and correct copy of a production
25 document made by Defendant Azoogole consisting of an email between Azoogole and
26 Spamhaus regarding white labeling. SPAMHAUS complained of this process to Azoogole in
27 February of 2005, as a reason they could not determine if its affiliates were spamming. This
28 Exhibit is being submitted Under Seal as it has been designated Confidential by Defendant

1 Azoogle.

2 19. Attached hereto as Exhibit "R" is a true and correct copy of a portion of the
3 Deposition Transcript of Plaintiff ASIS by Nella White, its President.

4 20. Attached hereto as Exhibit "S" is a true and correct copy of an internet article by
5 Wayne Porter of ReveNews.com. Plaintiff had researched the Internet and discovered various
6 references to Azoogle and its founder Alex Zhardanovsky's relationship to spamming
7 operations. Specifically a blog that Alex Zhardanovsky purportedly participated in on October
8 26, 2005, discussing Azoogle's policy on spamming and Azoogle's affiliates. In this blog Alex
9 Zhardanovsky purportedly said: "As for who takes responsibility, thats the age old question isnt
10 it? The link tracks through us, its our fault, its plain and simple."

11 21. Attached hereto as Exhibit "T" is a true and correct copy of Westlaw Cite
12 References for *People vs. McKean*, 76 Cal.App. 114, 243. This case is still good law, as far as
13 Plaintiff's attorney can determine, and has been widely cited in cases and appellate briefs as
14 recently as 2007 in cases before the California Supreme Court.

15 22. Attached hereto as Exhibit "U" is a true and correct copy of United States Senate
16 *Report of the Committee on Commerce, Science, and Transportation* under the **CAN SPAM**
17 **ACT OF 2003**, Report 108-102, dated July 16, 2003. On page 4: Testimony before the
18 Congress by FTC investigators indicate that the best way to identify the spammer and the
19 advertisers is to track the money.

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

22 **SINGLETON LAW GROUP**

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24 Date: October 4, 2007

/s/ Richard E. Grabowski
Richard E. Grabowski, Attorney for
Plaintiff, **ASIS INTERNET SERVICES**

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