

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

ROBERT H. BRAVER, an individual,

Plaintiff,

Case No. CIV-04-1013-W

vs.

AMERIQUEST MORTGAGE COMPANY, a Delaware corporation, INNOVATIVE MARKETING, INC., d/b/a LEAD EXTREME, a Washington corporation, THE LOAN PAGE, INC., a Delaware corporation, STECROFT HOLDINGS, INC., as successor in interest to GO APPLY, INC., d/b/a ELEADZ, a Nevada corporation, JOHN DOES 1-50, MI SOLUTIONS, INC., a California corporation, LEAD ASSOCIATION CORP, a California corporation, THE LEAD SOURCE, INC., a California corporation, COMMISSION JUNCTION, INC., a Delaware corporation, AVALON TRADING COMPANY, LLC, a California corporation, IMPACT WEB ENTERPRISES, INC., a California corporation, LEAD2.NET, INC., a Florida corporation, SUNBURN MARKETING GROUP, LLC, a California limited liability company, MONEYNEST HOLDINGS, INC., a California Corporation, INTERNATIONAL WEBWORKS.COM, LLC, a Colorado limited liability company, NICK HETCHER, an individual, LIBERTY LEAD SOURCE, INC, a Nevada corporation, TIM FAUST, an individual, DOTCOM MARKETING GROUP, INC., a Florida corporation, INETMEDIA, a California corporation, LEADCORP, a California corporation, LEAD TRANSFER, LLC, a Nevada limited liability company, ABACUS ENTERPRISES, INC., a California corporation, TANDAX, INC., a Washington corporation

Defendants.

AMERIQUEST MORTGAGE COMPANY, a Delaware corporation,

Cross-Complainant,

v.

INNOVATIVE MARKETING, INC. d/b/a LEAD EXTREME, a Washington Corporation; VISIUM SOLUTIONS CORPORATION, a Florida corporation; and PROFESSIONAL EQUITY MARKETING, a California Corporation, and ROES I-50, inclusive,

Cross-Defendant.



**RESPONSE TO PLAINTIFF'S DISCOVERY TO DEFENDANT STECROFT HOLDINGS, INC.,  
AS SUCCESSOR IN INTEREST TO GO APPLY, INC., d/b/a ELEADZ  
DATED NOVEMBER 4, 2005**

Pursuant to Federal Rule of Civil Procedure 34, Defendant STECROFT HOLDINGS, INC., d/b/a Go Apply and/or eLeadZ ("STECROFT") responds as follows to Plaintiff ROBERT H. BRAVER's ("Plaintiff") propounded discovery dated November 4, 2005 ("propounded discovery"):

**I. GENERAL RESPONSE.**

1. STECROFT's response to Plaintiff's propounded discovery is made to the best of STECROFT's present knowledge, information, and belief. This response is at all times subject to such additional or different information that discovery or further investigation may disclose and, while based on the present state of STECROFT's recollection, is subject to such refreshing of recollection, and such additional knowledge of facts, as may result from STECROFT's further discovery or investigation. STECROFT reserves the right to make any use of, or to introduce at any hearing and at trial, documents responsive to Plaintiff's propounded discovery but discovered subsequent to the date of STECROFT's initial production, including, but not limited to, any documents obtained in discovery herein.

2. STECROFT will respond to each document request with documents currently in STECROFT's possession. By stating in these responses that STECROFT will produce documents or is searching for documents, STECROFT does not represent that any document actually exists, but rather that STECROFT will make a diligent search and reasonable inquiry to ascertain whether documents responsive to Plaintiff's request do, in fact, exist.

3. To the extent that STECROFT responds to Plaintiff's document requests by stating that STECROFT will produce documents that STECROFT or any other party to this litigation deems to embody material that is private, business confidential, proprietary, trade secret, or otherwise protected from disclosure pursuant to Federal Rule of Civil Procedure 26(c)(7) and/or Federal Rule of Evidence 501, STECROFT will do so only pursuant to the terms of the entry of an appropriate Protective Order in place in this action.

4. STECROFT reserves all objections or other questions as to the competency, relevance, materiality, privilege or admissibility as evidence in any subsequent proceeding in or trial of this or any other action for any purpose whatsoever of this response and any document or thing produced or answer given in response to Plaintiff's propounded discovery.

5. STECROFT reserves the right to object on any ground at any time to such other or supplemental discovery as Plaintiff may at any time propound involving or relating to the subject matter of these requests.

6. Subject to all objections, privileges and other exceptions stated herein, STECROFT shall produce the documents requested in Plaintiff's propounded discovery at a date and time mutually agreed to by the parties.

## II. GENERAL OBJECTIONS.

STECROFT makes the following general objections, whether or not separately set forth in response to each interrogatory or document request, to each and every instruction, definition, interrogatory, and document demand made in Plaintiff's propounded discovery:

1. STECROFT objects to the propounded discovery to the extent it seeks information or documents beyond the limited scope of allowing Plaintiff to oppose the motion to dismiss filed by Lead Transfer, LLP, which was the only purpose for which the Court permitted discovery at this time, prior to the parties' Rule 26(f) conference. The majority of Plaintiff's propounded discovery does not further this limited purpose in any conceivable manner but, rather, appears to be discovery that would be served after the parties' Rule 26(f) conference and at the normal time permitted by statute and the Court rules. Therefore, the vast majority of Plaintiff's propounded discovery is premature.

2. STECROFT objects generally to the propounded discovery insofar as it seeks information or production of documents protected by the attorney-client privilege or the work product doctrine. Such information or documents shall not be provided in response to Plaintiff's propounded discovery and any inadvertent disclosure or production thereof shall not be deemed a waiver of any privilege with respect to such information or documents or of any work product doctrine that may attach thereto.

3. STECROFT objects generally to the propounded discovery insofar as it seeks information or documents protected from disclosure pursuant to Federal Rule of Civil Procedure 501. Such information or documents shall not be produced in response to Plaintiff's propounded discovery and any inadvertent production thereof shall not be deemed a waiver of any privilege with respect to such information or documents.

4. STECROFT objects to the definitions included in Plaintiff's propounded discovery to the extent said definitions purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific interrogatory or request on the ground that such enlargement,

expansion, or alteration renders the interrogatory or request vague, ambiguous, unintelligible, unduly broad, and uncertain.

5. STECROFT objects to all definitions, interrogatories, and requests to the extent they seek to require STECROFT to identify documents not currently in STECROFT's possession, custody or control, or to identify or describe persons, entities or events not known to STECROFT, on the grounds that such definitions, interrogatories or requests for production seek to require more of STECROFT than any obligation imposed by law, would subject STECROFT to unreasonable and undue annoyance, oppression, burden, and expense, and would seek to impose upon STECROFT an obligation to investigate or discover information or materials from third parties or sources who are equally accessible to Plaintiff.

6. STECROFT objects to all definitions, interrogatories and requests in which phrases such as "related to" or "relating to" appears. These terms are overly broad, vague, ambiguous, and unintelligible, require subjective judgment on the part of STECROFT and its attorneys, and would require a conclusion or opinion of counsel in the violation of the attorney work product doctrine.

7. STECROFT objects to the introductory instructions and definitions to the extent they define the "time period" for the discovery. These definitions are also overly broad and seek irrelevant documents not calculated to lead to the discovery of admissible evidence, and would subject STECROFT to unreasonable and undue annoyance, oppression, burden, and expense since the claims alleged in Plaintiff's Complaint first arose on or after April 7, 2003. Further, Plaintiff identifies two separate time periods to be relied upon apart from those stated in the specific requests. Thus, STECROFT objects to the interrogatories or requests for production of documents relating to the period prior to April 7, 2003. Similarly, STECROFT objects to the

interrogatories or requests for production of documents relating to the period after April 7, 2005, the date on which the Complaint herein was filed.

8. STECROFT objects to all instructions, definitions, interrogatories and document requests to the extent they seek to impose any obligations on STECROFT greater than those provided for by the Federal Rules of Civil Procedure.

**III. SPECIFIC OBJECTIONS AND RESPONSES TO PROPOUNDED DISCOVERY.**

Without waiving or limiting in any manner any of the foregoing General Objections, but rather incorporating them into each of the following responses to the extent applicable, STECROFT responds to the specific requests of Plaintiff's propounded discovery as follows:

**INTERROGATORIES**

**INTERROGATORY NO. 1**

Identify each lead you purchased from Lead Transfer, LLC pertaining to an Oklahoma resident or containing "OK", "Okla", "Okla.", or "Oklahoma" in the lead.

**RESPONSE TO INTERROGATORY NO. 1**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is conjunctive in that it seeks leads pertaining to an Oklahoma resident as well as those leads that contain one of the four search terms listed in the interrogatory.

Subject to and without waiving the foregoing objections, STECROFT responds that, subject to the entry of an appropriate protective order, it will produce a document created for this litigation containing those leads purchased from Lead Transfer, LLC where the contact identified their address as within the state of Oklahoma.

**INTERROGATORY NO. 2**

For each lead, identify the name, address, and telephone number listed in the lead.

**RESPONSE TO INTERROGATORY NO. 2**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is premature, overbroad and unduly burdensome. The Court has permitted limited discovery at this point to determine the merits of Lead Transfer, LLC's Motion to Dismiss for lack of personal jurisdiction. This interrogatory seeks information beyond which the Court can look in determining a Rule 12(b)(6) motion. Because this request is inconsistent with the Court's goals for this initial discovery, this request would subject STECROFT to undue annoyance, oppression, burden, and expense while increasing the likelihood of revealing confidential proprietary information. Further, this lead is impermissibly conjunctive.

Subject to and without waiving the foregoing objections, STECROFT responds that the document it will produce in response to Interrogatory No. 1 will contain the city, state, and zip code of the leads purchased from Lead Transfer, LLC where the contact identified their address as within the state of Oklahoma.

**INTERROGATORY NO. 3**

Did you have a written agreement under which you purchased leads from Lead Transfer, LLC? If so, please identify the parties or persons who signed the agreement, the title of the agreement, and identify the current location and record custodian of the agreement.

**RESPONSE TO INTERROGATORY NO. 3**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is premature, overbroad and unduly burdensome. The Court has permitted limited discovery at this point to determine the merits of Lead Transfer, LLC's Motion to Dismiss for lack of personal jurisdiction. This interrogatory seeks information beyond which the Court can

look in determining a Rule 12(b)(6) motion. Because this request is inconsistent with the Court's goals for this initial discovery, this request would subject STECROFT to undue annoyance, oppression, burden, and expense while increasing the likelihood of revealing confidential proprietary information.

Subject to and without waiving the foregoing objections, STECROFT responds that this information is contained in the documents produced in response to Request for Production of Documents No. 1.

**INTERROGATORY NO. 4**

Describe in detail all information you request or obtain from prior [sic] to purchasing a lead.

**RESPONSE TO INTERROGATORY NO. 4**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is premature, overbroad and unduly burdensome. The Court has permitted limited discovery at this point to determine the merits of Lead Transfer, LLC's Motion to Dismiss for lack of personal jurisdiction. This interrogatory seeks information beyond which the Court can look in determining a Rule 12(b)(6) motion and does not even limit the information to Lead Transfer, LLC. Because this request is inconsistent with the Court's goals for this initial discovery, this request would subject STECROFT to undue annoyance, oppression, burden, and expense while increasing the likelihood of revealing confidential proprietary information.

**INTERROGATORY NO. 5**

Identify, in detail, each complaint you have received which stated that leads purchased by you from Lead Transfer, LLC were generated by spam.

**RESPONSE TO INTERROGATORY NO. 5**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is premature, overbroad and unduly burdensome. The Court has permitted limited discovery at this point to determine the merits of Lead Transfer, LLC's Motion to Dismiss for

lack of personal jurisdiction. This interrogatory seeks information beyond which the Court can look in determining a Rule 12(b)(6) motion. Because this request is inconsistent with the Court's goals for this initial discovery, this request would subject STECROFT to undue annoyance, oppression, burden, and expense while increasing the likelihood of revealing confidential proprietary information.

**INTERROGATORY NO. 13 [sic]**

Did you perform any evaluation or due diligence of the Lead Transfer, LLC prior to or following your entry into contract(s) with Lead Transfer, LLC? If you did, please state when you did so and the results of your evaluations/due diligence in as much detail as you can.

**RESPONSE TO INTERROGATORY NO. 13**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is premature, overbroad and unduly burdensome. The Court has permitted limited discovery at this point to determine the merits of Lead Transfer, LLC's Motion to Dismiss for lack of personal jurisdiction. This interrogatory seeks information beyond which the Court can look in determining a Rule 12(b)(6) motion. Because this request is inconsistent with the Court's goals for this initial discovery, this request would subject STECROFT to undue annoyance, oppression, burden, and expense while increasing the likelihood of revealing confidential proprietary information.

**INTERROGATORY NO. 14**

Describe in as much detail as you can everything you did to determine whether Lead Transfer, LLC complied with the terms of your lead purchase agreements, the CAN\_SPAM Act of 2003, 15 U.S.C. 7701 et seq and Title 15, Oklahoma Statutes, 776.1-776.7. This request includes but is not limited to a detailed description and date of any audits, reviews and evaluations of the sources and methods of lead generators in obtaining leads.

**RESPONSE TO INTERROGATORY NO. 14**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is premature, overbroad and unduly burdensome. The Court has permitted limited discovery at this point to determine the merits of Lead Transfer, LLC's Motion to Dismiss for lack of personal jurisdiction. This interrogatory seeks information beyond which the Court can look in determining a Rule 12(b)(6) motion. Because this request is inconsistent with the Court's goals for this initial discovery, this request would subject STECROFT to undue annoyance, oppression, burden, and expense while increasing the likelihood of revealing confidential proprietary information.

**REQUEST FOR PRODUCTION OF DOCUMENTS**

**REQUEST NO. 1**

Please produce all contracts with Lead Transfer, LLC.

**RESPONSE TO REQUEST NO. 1**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is premature, overbroad and unduly burdensome. The Court has permitted limited discovery at this point to determine the merits of Lead Transfer, LLC's Motion to Dismiss for lack of personal jurisdiction. This request seeks information beyond which the Court can look in determining a Rule 12(b)(6) motion. Because this request is inconsistent with the Court's goals for this initial discovery, this request would subject STECROFT to undue annoyance, oppression, burden, and expense while increasing the likelihood of revealing confidential proprietary information.

Subject to and without waiving the foregoing objections, STECROFT responds that it will produce documents responsive to this request subject to entry of an appropriate protective order.

**REQUEST NO. 2**

Produce all documents related to any analysis, consideration or criticism of the decision to purchase leads from Lead Transfer, LLC.

**RESPONSE TO REQUEST NO. 2**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is premature, overbroad and unduly burdensome. The Court has permitted limited discovery at this point to determine the merits of Lead Transfer, LLC's Motion to Dismiss for lack of personal jurisdiction. This request seeks information beyond which the Court can look in determining a Rule 12(b)(6) motion. Because this request is inconsistent with the Court's goals for this initial discovery, this request would subject STECROFT to undue annoyance, oppression, burden, and expense while increasing the likelihood of revealing confidential proprietary information.

**REQUEST NO. 3**

Produce a copy of documents related to due diligence or other evaluations of Lead Transfer, LLC prior to or anytime after you agreed to enter into a contract with that company.

**RESPONSE TO REQUEST NO. 3**

In addition to the foregoing general objections, STECROFT objects to this request on the grounds that it is premature, overbroad and unduly burdensome. The Court has permitted limited discovery at this point to determine the merits of Lead Transfer, LLC's Motion to Dismiss for lack of personal jurisdiction. This request seeks information beyond which the Court can look in determining a Rule 12(b)(6) motion. Because this request is inconsistent with the Court's goals for this initial discovery, this request would subject STECROFT to undue annoyance, oppression, burden, and expense while increasing the likelihood of revealing confidential proprietary information.

**REQUEST NO. 4**

Produce all documents requested to be identified in your Response to Plaintiff's Interrogatories.

**RESPONSE TO REQUEST NO. 4**

Subject to and without waiving the foregoing objections, STECROFT responds that it will produce documents, not otherwise objected to, that are responsive to this request subject to entry of an appropriate protective order.

Dated: December 6, 2005

Respectfully submitted,

**FELLERS, SNIDER, BLANKENSHIP,  
BAILEY & TIPPENS, P.C.**

By: s/ Steven J. Adams  
Steven J. Adams, Okla. Bar #142  
John D. Russell, Okla. Bar #13343  
The Kennedy Building  
321 South Boston, Suite 800  
Tulsa, Oklahoma 74103  
Telephone: (918) 599-0621  
Facsimile: (918) 583-9659  
E-mail: [sadams@fellerssnider.com](mailto:sadams@fellerssnider.com)  
[jrussell@fellerssnider.com](mailto:jrussell@fellerssnider.com)

**CERTIFICATE OF SERVICE**

This is to certify that on the 6th day of December, 2005, a true and correct copy of the foregoing document, **RESPONSE TO PLAINTIFF'S DISCOVERY TO DEFENDANT STECROFT HOLDINGS, INC., AS SUCCESSOR IN INTEREST TO GO APPLY, INC., D/B/A ELEADZ DATED NOVEMBER 4, 2005** was served via facsimile on the following parties:


David Humphreys, Esq.  
Luke J. Wallace, Esq.  
HUMPHREYS WALLACE HUMPHREYS,  
P.C.  
1724 East Fifteenth Street  
Tulsa, Oklahoma 74104  
918-747-5300  
918-747-5311 (Fax)

Terry D. Kordeliski  
Robert A. Nance  
RIGGS, ABNEY, NEAL, TURPEN, ORBISON,  
LEWIS  
5801 North Broadway Avenue, Suite 101  
Oklahoma City, Oklahoma 73118  
405-843-9909  
405-842-2913 (Fax)

Michael R. McKee, Esq.  
MCKEE LAW FIRM  
Post Office Box 1351  
Norman, Oklahoma 73070  
405-360-2322  
405-366-6416 (Fax)

Phillip L. Free, Jr.  
Marie S. Johnston  
CROWE & DUNLEVY, P.C.  
20 North Broadway, Suite 1800  
Oklahoma City, Oklahoma 73102  
405-235-7700  
405-239-6651 (Fax)

Kalley R. Aman  
Michael J. Cereseto  
BUCHALTER, NEMER, FIELDS &  
YOUNGER  
601 Figueroa Street, Suite 2400  
Los Angeles, California 90017  
213-891-0700  
213-896-0400 (Fax)

  
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Willetta Powell