

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

ROBERT H. BRAVER, an individual,

Plaintiff,

v.

AMERIQUEST MORTGAGE COMPANY, a
Delaware corporation, et al,

Defendants.

No. CIV-04-1013-W

**DECLARATION OF TIM FOUST IN
SUPPORT OF THE MOTION TO
DISMISS OF TIM FOUST AND
TANDAX, INC.**

AMERIQUEST MORTGAGE COMPANY, a
Delaware corporation,

Cross-Complainant,

v.

INNOVATIVE MARKETING, INC. d/b/a
LEAD EXTREME, a Washington corporation, et
al,

Cross-Defendants

I, Tim Foust, testify based on personal knowledge regarding the foregoing matters:

1. I was a director of Tandax, Inc. (“Tandax”).
2. Tandax is a now inactive Washington corporation which served as a broker in the data industry. Tandax bought and sold “data,” or expressions of interest in consumer-related products and services.

3. This data was generated in a variety of ways, including but not limited to, Internet-based marketing.
4. Tandax undertook efforts to ensure that any third party it dealt with complied with all laws, including the CAN-SPAM Act, and state laws regulating the transmission of unsolicited commercial email. It was in Tandax's interest to only sell or distribute data containing valid expressions of consumer interest, as any invalid data jeopardized client relationships and resulted in a loss of repeat customers. Tandax ensured it dealt with valid data in two ways. First, it had no dealings with any one known to regularly violate federal and state laws regulating unsolicited commercial email. Second, Tandax immediately terminated any broker which was the subject of a single complaint.
5. Tandax had an office in Washington.
6. Tandax never conducted any business whatsoever in Oklahoma.
7. Tandax never maintained any offices in Oklahoma.
8. Tandax never employed any Oklahoma-based employees.
9. Tandax never maintained any telephone or facsimile numbers in Oklahoma.
10. Tandax never advertised in any Oklahoma newspapers or magazines.
11. Tandax never had any Oklahoma-based owners.
12. Tandax never owned or leased any property in the State of Oklahoma.
13. Tandax was never licensed to conduct business in the State of Oklahoma.

14. None of Tandax's contractors or employees ever traveled to Oklahoma on behalf of Tandax.
15. Tandax never generated any revenues from customers in the State of Oklahoma.
16. Tandax has never received a single complaint relating to unsolicited commercial email.

I state under the laws of perjury of the State of Oregon and the United States that the foregoing is true and correct to the best of my knowledge.

DATED this 13th day of February, 2006.



Tim Foust