

AFFIDAVIT OF ROBERT H. BRAVER

STATE OF OKLAHOMA            )  
  ) ss  
CLEVELAND COUNTY            )

I, Robert H. Braver, being duly sworn under oath, do hereby state:

1. I am the Plaintiff in the case Braver vs. Ameriquest Mortgage Company et al, Case No. CIV-04-1013-W, currently pending in the United States District Court for the Western District of Oklahoma.
2. I have provided Internet email, web hosting, DNS hosting, and other Internet services to third parties since at least as far back as 1998.
3. Particularly during 2003 and 2004, fraudulent spam email promoting mortgage offers became a large proportion of the spam received by my servers. I have archived and have been sorting over 29,000 mortgage spam emails from January, 2004 through August, 2005 alone. The number that I have collected will necessarily be only a portion of the total number, which is unknown.
4. All of the aforementioned mortgage spams were sent with forged, missing, or substantially misleading routing information, false/randomly generated return addresses, and/or obfuscations apparently to avoid spam filters.
5. Almost all of the aforementioned mortgage spams do not include anything that even purports to be a physical postal address. Of the few that do, the address is clearly false, usually a randomized number for a post office box and what appears to be a randomly selected city.
6. Beginning in the summer of 2003, I personally responded to several representative samples of these spams using fictitious, decoy information in order to determine who was responsible for the large amounts of fraudulent mortgage spam transmitted to or through my server facilities. In each case, I received a call back from Ameriquest.
7. I contacted Ameriquest's marketing department and spoke with representatives identifying themselves as Heather and Jennifer Egan on several occasions to make them aware of the problem. From the outset I specifically put Heather and Ms. Egan on notice that this was not simply a matter of unsolicited nuisance email, but was in fact fraudulent email sent with forged headers, violating various laws. At first Ameriquest was cooperative and would look up the company that a specific decoy lead was obtained from and refer me to that company. I was told that two of the decoys were obtained from "leadextreme.com" When I followed up with Will Heaton of Lead Extreme, I was told that Ameriquest's Ms. Egan merely advised Lead

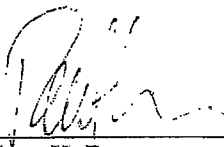
**PLAINTIFF'S EXHIBIT**  
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Extreme to remove my email address from their list. I also checked the leadextreme.com web site and found a statement on Lead Extreme's main web page that admitted that they market via unsolicited email.

8. In August 2003, I confronted Ms. Egan with this information and Ameriquest's apparent lack of concern and due diligence. Ms. Egan admitted to telling Lead Extreme to remove email addresses, and I told her in words to the effect that a more appropriate response would be to cease doing business with a company engaging in these practices. Ms. Egan then transferred me to Rick Davies in Ameriquest's legal department.
9. Mr. Davies told me that he was aware that his affiliates send large email marketing campaigns, but took the position that Ameriquest was not liable for the emails sent by "third parties." I told Mr. Davies in words to the effect that I believed Ameriquest was responsible for fraudulent and unlawful advertising that they were knowingly paying for.
10. I continued to respond to fraudulent mortgage spams with decoy information over a period of approximately two years. Almost all resulted in an answer back from Ameriquest.
11. The fictitious names, general locations, general dates, and contact telephone numbers are as follows:

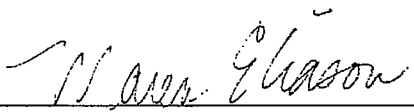
"Decoy" Name	Location	Phone #	Appx. Date
Maren Eliason	Norman, OK	405-820-8656	July '03
Gregory Annapolis	St Louis, MO	314-779-0134	July '03
Roger Griffith	Norman, OK	405-253-4058	Oct. '03
Martin Wilkinson	Atlanta, GA	unknown	Dec. '03
Ron Bartles	St Louis, MO	314-754-7458	Jan. '04
Jerry Pickering	Moore, OK	405-227-9517	Jan. '04
Clayton Fountain	Los Angeles, CA	213-596-9700	Jan. '04
Shiela Rhodes	Oklahoma City, OK	405-227-9517	April '04
Frederick Fremont	Mt. Pleasant, SC	843-972-0294	June '04
Zachariah Winkle	Dallas, TX	214-269-1166	June '04
Jake Sparks	W. Blomfield, MI	248-724-1711	July '04
Randi Tatum	Detroit, MI	313-347-2719	July '04
Leroy Crockett	Houston, TX	713-474-1417	Aug. '04
Robbie Phipps	Denver, CO	303-785-1755	Sep. '04
Cleo Benitez	Dallas, TX	214-269-1258	Dec. '04
Maribel Bacon	Newark, NJ	212-400-7514	Dec. '04
Pace O'Dell	Terrell, TX	972-210-0223	Jan '05
Taylor Askew	Dallas, TX	214-699-0104	Jan. '05
Golda Coleman	Kansas City, KS	913-378-0311	Apr. '05
Wendell Slater	Dallas, TX	214-329-1776	Apr. '05

12. Each of the decoy contacts listed above resulted in a response from Ameriquest, whereupon I typically "played along" as the decoy persona seeking to refinance his mortgage. On a number of occasions I mentioned that I had responded to a spam email, and on almost all of these occasions the Ameriquest representative did not express any surprise, and on several occasions the representatives admitted that Ameriquest generated sales leads through spam.
13. One such email, purportedly from a "Nolan Burris" with a return email address of "mkg529euj@msn.com," was received by my server on or about October 17, 2003. This email was part of a pattern of over 50 spams that I have correlated so far, received from August 2003 through July 2004 that share a number of common characteristics. This particular email was sent to my personal email address, rbraver@ohww.norman.ok.us. Other similar emails were sent to various email addresses at another domain that I own, wilburnet.com, for which the domain registration information has always shown as being registered to me at a Norman, Oklahoma address. Messages with were also sent to the submission and list owner addresses of the junkfax-1 mailing list at the junkfaxes.org domain. Junkfaxes.org has always been registered to me with a Norman, Oklahoma address.
14. I responded to the "Nolan Burris" spam as a representative sample of the larger pattern of ongoing spam apparently sent by the same person(s), clicking on the link which took me to the "optinmailing.biz" web site. I filled in the web page form using the name "Roger Griffith" as the decoy with my office address in Norman, Oklahoma listed as the property address.

  
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Robert H. Braver

Subscribed and sworn to before me on this 5<sup>th</sup> day of February, 2006.



  
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Notary Public