

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

ROBERT H. BRAVER, an individual	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-04-1013-W
	)	
AMERIQUEST MORTGAGE COMPANY,	)	
INC., et al.	)	
	)	
Defendants.	)	

**DEFENDANT LEAD2NET.NET, INC.'S  
RESPONSES TO PLAINTIFF'S DISCOVERY**

Defendant Lead2Net.Net, Inc. ("Lead2") hereby submits its responses to Plaintiff's Discovery.

**GENERAL OBJECTIONS**

1. Lead2 hereby responds to plaintiff's discovery subject to and without waiving the assertions in its Motion to Dismiss. Specifically, Lead2 lacks sufficient minimum contacts with the State of Oklahoma to justify the Court's exercise of personal jurisdiction. Neither specific nor general jurisdiction exists over Lead2.

2. Lead2 objects to plaintiff's definitions and instructions to the extent that they attempt to impose upon it obligations beyond those required by the Federal Rules of Civil Procedure, the local rules of this Court, or the Court's Order regarding jurisdictional discovery.

3. Lead2 objects to plaintiff's definition of "you", "your" and "this Defendant" as over broad, and apparently intended to obligate Lead2 to respond to plaintiff's discovery requests on behalf of other entities. In accordance with the Federal Rules of Civil Procedure, Lead2 shall

**EXHIBIT  
A**

respond only on its own behalf and not on behalf of any other defendant, or any other entity whatsoever.

4. Lead2 objects to the discovery to the extent it calls for the production of information or documents protected by the attorney-client privilege or work product doctrine.

5. Lead2 objects to the discovery to the extent it calls for proprietary or confidential information.

6. Lead2 objects to the time frame of the discovery requests. The instructions and definitions state that unless specified otherwise, "the time period referred to herein is the time period specified in Plaintiff's Petition [sic]" This is vague and ambiguous as no "time period" is specified in the Complaint.

#### **SPECIFIC OBJECTIONS AND RESPONSES**

Subject to the foregoing General Objections and any additional objections made in response to specific discovery requests, Lead2 responds as follows:

#### **INTERROGATORIES**

**INTERROGATORY NO. 1:** State the domain name of every website you used to generate business.

**RESPONSE TO INTERROGATORY NO. 1:** Objection. This Interrogatory is vague as it contains no identification of the type of business and it contains no specific time frame. As such, this Interrogatory is also overbroad in time frame and subject matter. Subject to and without waiving the foregoing objections, as stated in the Affidavit of Nicholas Passalacqua, from June 20 to August 8, 2005, Lead2 utilized www.emortagertee.com to generate its own leads.

**INTERROGATORY NO. 2:** Provide the name and contact information of the lead supplier identified in paragraph 17 of the Affidavit of Nicholas Passalacqua.

**RESPONSE TO INTERROGATORY NO. 2:** After a search of its business records, Lead2 does not have any information from which to answer this Interrogatory.

**INTERROGATORY NO. 3:** State your knowledge related to the identity of the sender of the email identified in paragraph number 16 of the Affidavit of Nicholas Passalacqua.

**RESPONSE TO INTERROGATORY NO. 3:** Lead2 has no knowledge of the identity of the sender of the email.

**INTERROGATORY NO. 4:** State what updated information was provided on April 3, 2006 to the Registrar related to the domain www.emortgagetree.com.

**RESPONSE TO INTERROGATORY NO. 4:** Objection. This Interrogatory assumes facts not in evidence. This Interrogatory also seeks information which is not relevant and which is not likely to lead to the discovery of admissible evidence. This Interrogatory also seeks information about an entity other than Lead2 and information which is not in the possession of Lead2. Subject to and without waiving the foregoing objections, the domain registration was updated.

**INTERROGATORY NO. 5:** Identify all documents which relate to claims in paragraph 6 of the Affidavit of Nicholas Passalacqua that the www.emortgagetree.com website is owned by Nicholas Passalacqua.

**RESPONSE TO INTERROGATORY NO. 5:** Objection. This Interrogatory is overbroad in seeking the identification of "all documents which relate to." Further, this Interrogatory seeks information about an entity and from an entity other than Lead2. Subject to and without waiving the

foregoing objections, Lead2 cannot identify any responsive documents. Mr. Passalacqua designed and built the website and he is the contact for the website.

**INTERROGATORY NO. 6:** Provide the name and contact information of the person or entity to whom you sold the lead identified in paragraph 17 of the Affidavit of Nicholas Passalacqua.

**RESPONSE TO INTERROGATORY NO. 6:** Upon information provided by Ameriquest in this litigation: Ameriquest.

**INTERROGATORY NO. 7:** Identify your shareholders by providing the name and contact information for each.

**RESPONSE TO INTERROGATORY NO. 7:** Nicholas Passalacqua, 7700 Congress Ave., Suite 3216, Boca Raton, FL 33487.

**INTERROGATORY NO. 8:** State the number of leads you purchased from the source identified in your Response to Interrogatory No. 2.

**RESPONSE TO INTERROGATORY NO. 8:** *See* Response to Interrogatory No. 2. After a search of its business records, Lead2 does not have any information from which to answer this Interrogatory.

**INTERROGATORY NO. 9:** State whether you had a written agreement with the source you identified in Response to Interrogatory No. 2 and identify the parties who signed the agreement.

**RESPONSE TO INTERROGATORY NO. 9:** *See* Response to Interrogatory No. 2. After a search of its business records, Lead2 does not possess a “written agreement” responsive to this interrogatory, nor does it have any other information from which to answer this Interrogatory.

**INTERROGATORY NO. 10:** State the name and contact information of the owners of [www.emortgagetree.com](http://www.emortgagetree.com).

**RESPONSE TO INTERROGATORY NO. 10:** Nicholas Passalacqua, 7700 Congress Ave., Suite 3216, Boca Raton, FL 33487.

**INTERROGATORY NO. 11:** Explain why you chose to begin on June 20<sup>th</sup> and end on August 8, 2005, to generate your own leads through [www.emortgagetree.com](http://www.emortgagetree.com).

**RESPONSE TO INTERROGATORY NO. 11:** Objection. This Interrogatory seeks information which is not relevant and which is not likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Lead2 began to generate its own leads because it thought the use of this website would be a productive business tool. Lead2 ceased generating its own leads because it was not cost effective.

**INTERROGATORY NO. 12:** State the number of leads you have sold since your inception for which a person in Oklahoma provided information.

**RESPONSE TO INTERROGATORY NO. 12:** As stated in the Affidavit of Nicholas Passalacqua, from September 9, 2005 to April 26, 2006, 425 of 47,845 leads were sold by Lead2 for which a person in Oklahoma provided information. With respect to April 26, 2006 to present, Lead2 will supplement this response.

**INTERROGATORY NO. 13:** Provide a complete description of all marketing you have conducted and state with specificity any geographic limitations or exclusions (i.e., state by state) you placed on the marketing.

**RESPONSE TO INTERROGATORY NO. 13:** Objection. This Interrogatory is vague and ambiguous. This Interrogatory is also overbroad in time frame. Subject to and without waiving the foregoing objections, Lead2 runs radio commercials in Florida, places internet advertisements

which do not target Oklahoma, conducts telemarketing but does not call Oklahoma in that regard, purchases leads, and has its [www.Lead2net.net](http://www.Lead2net.net) website.

**INTERROGATORY NO. 14:** Identify every website hosted or sponsored by you.

**RESPONSE TO INTERROGATORY NO. 14:** Objection. This Interrogatory is vague and ambiguous. There is no definition provided of “hosted” or “sponsored”. This Interrogatory is also overbroad in time frame. Subject to and without waiving the foregoing objections, [www.Lead2Net.Net](http://www.Lead2Net.Net) and [www.Remaxlistings.com](http://www.Remaxlistings.com).

**INTERROGATORY NO. 15:** Identify every website hosted or sponsored by [www.emortgagetree.com](http://www.emortgagetree.com).

**RESPONSE TO INTERROGATORY NO. 15:** Objection. This Interrogatory seeks information which is not relevant and which is not likely to lead to the discovery of admissible evidence. This Interrogatory is also vague and ambiguous. There is no definition provided of “hosted” or “sponsored”. This Interrogatory is also overbroad in time frame and subject matter. Further, this Interrogatory seeks information about an entity other than Lead2 and information which is not in the possession of Lead2.

### **PRODUCTION OF DOCUMENTS**

**REQUEST NO. 1:** Produce the agreements under which you purchased the lead identified in paragraph number 17 of the Affidavit of Nicholas Passalacqua.

**RESPONSE TO REQUEST NO. 1:** Objection. This Request assumes facts not in evidence. Subject to and without waiving the foregoing objection, after a search of its business records, Lead2 has not located any responsive documents.

**REQUEST NO. 2:** Produce the agreements you have had with the person or entity to whom you sold a lead identified in paragraph number 17 of the Affidavit of Nicholas Passalacqua.

**RESPONSE TO REQUEST NO. 2:** Objection. This Request assumes facts not in evidence and is not limited to the lead in question. Subject to and without waiving the foregoing objections, according to Ameriquest, the lead in question was sold to it by Lead2. Lead2 shall produce its agreements with Ameriquest.

**REQUEST NO. 3:** Produce your agreements with the owner of [www.emortgagetree.com](http://www.emortgagetree.com).

**RESPONSE TO REQUEST NO. 3:** Objection. This Request is vague, ambiguous, and overbroad in time and subject matter. This Request also seeks documents which are not relevant and which are not likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Lead2 has no responsive documents.

**REQUEST NO. 4:** Produce the documents related to ownership of the [www.emortgagetree.com](http://www.emortgagetree.com) website.

**RESPONSE TO REQUEST NO. 4:** Objection. This Request is vague and overbroad in time frame and subject matter. Subject to and without waiving the foregoing objections, Lead2 has no responsive documents.

**REQUEST NO. 5:** Produce your marketing materials.

**RESPONSE TO REQUEST NO. 5:** Objection. This Request is vague, ambiguous and overbroad in subject matter and time frame. Subject to and without waiving the foregoing objections, Lead2 has no written marketing materials.

**REQUEST NO. 6:** Produce the documents you identified in your response to Interrogatory No. 5.

**RESPONSE TO REQUEST NO. 6:** Lead2 is not in the possession of any such documents.

**REQUEST FOR ADMISSIONS**

**REQUEST NO. 1:** Admit www.Lead2Net.Net is the registrant for Lead2Net.Net.

**RESPONSE TO REQUEST NO. 1:** Admitted.

**REQUEST NO. 2:** Admit that Nicholas Passalacqua is the administrative contact for the domain www.Lead2Net.net.

**RESPONSE TO REQUEST NO. 2:** Admitted.

**REQUEST NO. 3:** Admit that www.Lead2Net.net is the registrant for domain www.emortgagetree.com.

**RESPONSE TO REQUEST NO. 3:** Admitted.

**REQUEST NO. 4:** Admit that Nicholas Passalacqua is the administrative contact for domain www.emortgagetree.com.

**RESPONSE TO REQUEST NO. 4:** Admitted.

**REQUEST NO. 5:** Admit the genuineness of the Lead2Net.Net website pages attached hereto as Exhibit 1 and Bates stamped by Plaintiff's counsel as Lead2Net 00001 through 00043.

**RESPONSE TO REQUEST NO. 5:** Admitted.

**REQUEST NO. 6:** Admit that www.emortgagetree.com has conducted an email marketing campaign.

**RESPONSE TO REQUEST NO. 6:** Objection. This Request for Admission is vague and ambiguous. There is no time frame provided and a definition of "email marketing campaign" was not provided. It is overbroad in subject matter and time frame. This Request for Admission also

seeks information which is not relevant and which is not likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections: Denied.

**REQUEST NO. 7:** Admit that www.emortgagetree.com has sent commercial e-mails into Oklahoma.

**RESPONSE TO REQUEST NO. 7:** Objection. This Request for Admission is vague and ambiguous. There is no time frame provided and a definition of "commercial e-mails" was not provided. It is also overbroad in subject matter and time frame. This Request for Admission also seeks information which is not relevant and which is not likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections: Denied.

**REQUEST NO. 8:** Admit that you have solicited mortgage leads in Oklahoma.

**RESPONSE TO REQUEST NO. 8:** Denied.

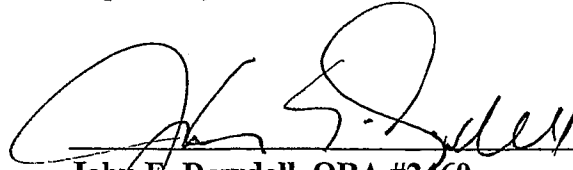
**REQUEST NO. 9:** Admit that www.emortgagetree.com conducts marketing designed to solicit business from the state of Oklahoma.

**RESPONSE TO REQUEST NO. 9:** Objection. This Request for Admission is vague and ambiguous and is overbroad in time frame. This Request for Admission also seeks information which is not relevant and which is not likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections: Denied.

**REQUEST NO. 10:** Admit that Lead2Net conducts marketing designed to solicit business from the state of Oklahoma.

**RESPONSE TO REQUEST NO. 10:** Denied.

Respectfully submitted,



**John E. Dowdell, OBA #2460**

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 14, 2006, a true and correct copy of the foregoing was **mailed by depositing same in the U.S. Mail**, proper postage thereon fully prepaid, and addressed to:

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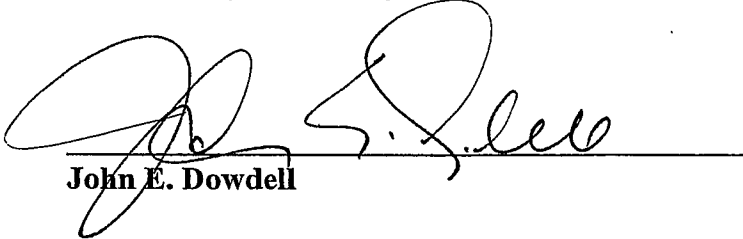
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