

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA

ROBERT H. BRAVER, an individual,	)
Plaintiff,	)
vs.	) Case No. CIV-04-1013-W
	)
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, INTERNATIONAL	)
WEBWORKS.COM, LLC, a Colorado limited liability	)
company, NICK HETCHER, an individual,	)
LIBERTY LEAD SOURCE, INC, a Nevada corporation,	)
DOTCOM MARKETING GROUP, INC., a Florida	)
corporation, INETMEDIA, a California corporation,	)
LEADCORP, a California corporation,	)
ABACUS ENTERPRISES, INC., a California corporation,	)
Defendants.	)

AMERIQUEST MORTGAGE	)
COMPANY, a Delaware corporation,	)
Cross-Complainant,	)
vs.	)
	)
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.	)

**PLAINTIFF'S REPLY TO LEAD ASSOCIATION CORP.'S COUNTERCLAIM**

Plaintiff, Robert Braver ("Braver"), for his reply to the counterclaim of Lead Association Corp. ("LAI"), states as follows:

1. Paragraph 1 does not make an allegation, but makes a statement. To the extent this paragraph is deemed to be an allegation against Braver, Braver is without

sufficient information to either admit or deny the allegations in paragraph 1 of the counterclaim, except to the extent that Plaintiff admits the Court does have supplemental jurisdiction over the counterclaim pursuant to 28 U.S.C. § 1367.

2. Braver is without sufficient information to either admit or deny the allegations of paragraph 2, except that Plaintiff will admit that information indicates that LAI sold leads to Ameriquest Mortgage Company.

3. Braver denies the allegations of paragraph 3 of the counterclaim.

4. Braver admits only that he submitted decoy information in response to unlawful, wrongful and fraudulent emails soliciting mortgage loans that were regularly received; that some email transmissions and decoy submissions were identified in Braver Affidavits filed in this matter, including the Cleo Denitez and Golda Coleman decoys; and telephone calls were made to the decoy phone number provided by Braver. Braver denies the remaining allegations in paragraph 4.

5. Braver admits that LAI sold leads to Ameriquest, which included Braver's decoy information. Braver denies the other allegations in paragraph 5.

6. Braver denies that he told Ameriquest "that mortgage leads it had acquired were fraudulent emails with forged headers and in violation of various laws." Braver further denies that he had any communications with Ameriquest regarding LAI and, therefore, denies all allegations in paragraph 6.

7. Braver is without sufficient information to either admit or deny the allegations that "Ameriquest did not renew its contract with LAI", and the same is, therefore, denied. Braver denies the remaining allegations in paragraph 7.

8. Braver denies the allegations in paragraph 8.

9. Braver denies the allegations in paragraph 9.
10. Braver realleges and incorporates his responses to paragraphs 1 through 9, inclusive.
11. Braver denies the allegations in paragraph 11.
12. Braver denies the allegations in paragraph 12.
13. Braver denies the allegations in paragraph 13.
14. Braver realleges and incorporates his responses to paragraphs 1 through 13, inclusive.
15. Braver denies the allegations in paragraph 15.
16. Braver denies the allegations in paragraph 16.
17. Braver denies the allegations in paragraph 17.
18. Braver realleges and incorporates his responses to paragraphs 1 through 17, inclusive.
19. Braver denies the allegations in paragraph 19.
20. Braver denies the allegations in paragraph 20.
21. Braver realleges and incorporates his responses to paragraphs 1 through 20, inclusive.
22. Braver denies the allegations in paragraph 22.
23. Braver denies the allegations in paragraph 23.
24. Braver denies the allegations in paragraph 24.
25. Braver denies the allegations in paragraph 25.
26. Braver denies the allegations in paragraph 26.

**AFFIRMATIVE DEFENSES**

1. LAI has failed to state a claim against Braver upon which relief may be granted.
2. LAI violated the Oklahoma Fraudulent Use of Electronic Mail Statute and the Oklahoma Unsolicited Commercial Electronic Mail Statutes.
3. LAI violated CAN-SPAM Act.
4. LAI's claims are barred by the doctrine of uncleaned hands.
5. Estoppel.
6. LAI has not suffered any compensable injury as the result of the actions of Braver and, as a result, is not entitled to an award against Braver.
7. Assumption of risk.
8. Contributory negligence.
9. Illegality.
10. Plaintiff incorporates all allegations and theories of recovery set forth in all complaints, specifically including his Third Amended Complaint, as affirmative defenses herein.
11. Ratification.
12. Participation.
13. Conspiracy.
14. Aiding and abetting.
15. Enabling.
16. Any harm sustained by LAI is solely the result of its own acts and practices and those of its affiliates, accomplices, co-conspirators, agents and participants.

WHEREFORE, premises considered, Braver prays that judgment be entered in his favor and against LAI for its damages incurred, for punitive damages, for costs, for attorney fees, and for such other and further relief to which he may be entitled.

Respectfully submitted,

**HUMPHREYS WALLACE HUMPHREYS, P.C.**

By: /s/ Luke Wallace  
David Humphreys, OBA #12346  
Luke J. Wallace, OBA #16070  
Laura Frossard, OBA #3151  
9202 S. Toledo Ave.  
Tulsa, Oklahoma 74137  
(918) 747-5300 / (918) 747-5311 FAX

- AND -

Michael R. McKee, OBA #6018  
McKee Law Firm  
Post Office Box 1351  
Norman, Oklahoma 73070  
(405) 360-2322 / (405) 366-6416 FAX

**ATTORNEYS FOR PLAINTIFFS**

**JURY TRIAL DEMANDED**  
**ATTORNEYS LIEN CLAIMED**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of December, 2006 I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

<p>Terry D. Kordeliski, Esq.                  Robert A. Nance, Esq.                  Riggs Abney Neal Turpen Orbison Lewis                  5801 North Broadway Ave., Suite 101                  Oklahoma City, OK 73118  <a href="mailto:TKordeliski@RiggsAbney.com">TKordeliski@RiggsAbney.com</a>  <a href="mailto:rnance@riggsabney.com">rnance@riggsabney.com</a>  <i>Attorneys for the Defendant</i>  <i>Ameriquest Mortgage Company</i></p>	<p>Kalley R. Aman, Esq.                  Michael J. Cereseto, Esq.                  Buchalter Nemer                  1000 Wilshire Blvd., Suite 1500                  Los Angeles, CA 90017  <a href="mailto:Kaman@buchalter.com">Kaman@buchalter.com</a>  <a href="mailto:mcereseto@buchalter.com">mcereseto@buchalter.com</a>  <i>Attorneys for the Defendant</i>  <i>Ameriquest Mortgage Company</i></p>
<p>Patrick Gunn, Esq                  Courtney Nguyen, Esq.                  Cooley Godward, LLP                  101 California Street, 5<sup>th</sup> Floor                  San Francisco, California, 94111  <a href="mailto:pgunn@cooley.com">pgunn@cooley.com</a>  <i>Attorney for the Defendants The Loan Page, Inc.,</i>  <i>Go Apply, Inc. and Stecroft Holdings, Inc.</i></p>	<p>Steven J. Adams, Esq.                  John D. Russell, Esq.                  Fellers, Snider, Blankenship, Bailey &amp; Tippens,                  P.C.                  321 South Boston Avenue, Suite 800                  Tulsa, Oklahoma 74103-3318  <a href="mailto:sadams@fellerssnider.com">sadams@fellerssnider.com</a>  <a href="mailto:jrussell@fellerssnider.com">jrussell@fellerssnider.com</a>  <i>Attorneys for Defendant</i>  <i>Go Apply, Inc. d/b/a Eleadz</i></p>
<p>Arthur F. Hoge III                  Brinda K. White                  Christopher W. Cotner                  Mee, Mee &amp; Hoge, PLLP                  50 Penn Place                  1900 NW Expressway, Suite 1400                  Oklahoma City, OK 73118  <a href="mailto:afhoge@meehoge.com">afhoge@meehoge.com</a>  <a href="mailto:bkw@meehoge.com">bkw@meehoge.com</a>  <a href="mailto:cwc@meehoge.com">cwc@meehoge.com</a>  <i>Attorneys for Defendant Lead Association, Inc.</i></p>	<p>Joseph Leventhal, Esq                  James Patterson, Esq.                  Cooley Godward, LLP                  4401 Eastgate Mall                  San Diego, California, 92121  <a href="mailto:jleventhal@cooley.com">jleventhal@cooley.com</a>  <i>Attorney for the Defendants The Loan Page, Inc.</i>  <i>and Stecroft Holdings, Inc.</i></p>
<p>Deborah K. Patterson                  Webb, Patterson and Tapella                  906 G Street, Suite 630                  Sacramento, California 95814-1813  <a href="mailto:dpatterson@probateattorneys.com">dpatterson@probateattorneys.com</a>  <i>Attorney for LeadCorp</i></p>	<p>Marie Johnston                  Phillip L. Free, Jr.                  Crowe &amp; Dunlevy, P.C.                  20 North Broadway, Suite 1800                  Oklahoma City, OK 73102  <a href="mailto:Johnstom@crowedunlevy.com">Johnstom@crowedunlevy.com</a>  <a href="mailto:freephil@crowedunlevy.com">freephil@crowedunlevy.com</a>  <i>Attorney for International Webworks.com, L.L.C.</i>  <i>and Innovative Marketing, Inc.</i></p>

/s/ Luke Wallace

This is to certify that on the 6<sup>th</sup> day of December ,2006, a true and correct copy of the above and foregoing instrument was mailed by placing a copy of same in the United States mail, proper postage pre-paid thereon, and addressed to:

Nick Hetcher  
N830 Pond Road  
Marinette, WI 54143

/s/ Luke Wallace