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The Honorable RICARDO S. MARTINEZ

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

NO. CV04-2171RSM

Plaintiff,

**ORDER GRANTING RELIEF ON  
PLAINTIFF’S MOTION FOR  
SUMMARY JUDGMENT  
AGAINST GARY HUNZIKER**

v.

AVTECH DIRECT, also doing business as AVTECH COMPUTERS and EDUCATIONAL PURCHASING SERVICES; ARLENE SEDIQZAD, also known as ARLENE GRANT and ARLENE HUNZIKER, manager of AVTECH DIRECT, individually and on behalf of her marital community; and GARY HUNZIKER, manager of AVTECH DIRECT, individually and on behalf of his marital community; MD&I CORPORATION, a California for-profit corporation; and MIN HUI ZHAO, also known as MICHAEL ZHAO, individually, and on behalf of his marital community,

Defendants.

This matter having come before the Court on Plaintiff’s Motion for Summary Judgment and for relief against Gary Hunziker, and the Court having reviewed Plaintiff’s Motion and

1 accompanying documents, and Defendant's Response, if any, and Plaintiff's Reply and  
2 attachment thereto, if any, hereby,

3 FINDS that there are no disputed material issues of fact; that Defendant engaged in  
4 conduct that violated the Controlling the Assault of Non-Solicited Pornography and Marketing  
5 Act ("CAN-SPAM Act"), 15 U.S.C. § 7701, et seq.; has engaged in conduct that violated RCW  
6 19.190, the Commercial Electronic Mail Act ("UCE Act"), and that such violations constitute per  
7 se violations of the Consumer Protection Act, RCW 19.86, et seq.; and has engaged in conduct  
8 that violated RCW 19.86, the Unfair Business Practices-Consumer Protection Act ("Consumer  
9 Protection Act"); and

10 ORDERS that Plaintiff's Motion for Summary Judgment is GRANTED and Plaintiff's  
11 Request for Relief in its Motion for Summary Judgment against Gary Hunziker is GRANTED  
12 as follows:

13 1. Defendant and all successors, assigns, transferees, officers, agents, servants,  
14 employees, representatives, and all other persons or entities in active concert or participation  
15 with Defendant are hereby enjoined and permanently restrained in the State of Washington  
16 from directly or indirectly engaging in any of the following conduct:

17 a. Using false or misleading information in the subject line of a  
18 commercial electronic mail message.

19 b. Initiating the transmission of a commercial electronic mail message  
20 with false or misleading header information;

21 c. Misrepresenting the identity of the sender or the point of origin of a  
22 commercial electronic mail message.

23 d. Engaging in any conduct in violation of the Controlling the Assault of  
24 Non-Solicited Pornography and Marketing Act ("CAN-SPAM Act"), 15 U.S.C. § 7701,  
25 et seq.  
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1 e. Making any misrepresentations in the context of any advertising of  
2 products or services.

3 f. Creating a false sense of urgency, exclusivity, or a restriction on  
4 available products or services in the context of any advertising of services or products.

5 g. Failing to stop sending unsolicited electronic mail messages to any  
6 consumer who, by any means whatsoever, has requested to not receive future such  
7 messages from Defendant.

8 h. Falsely implying directly or indirectly that a commercial electronic mail  
9 solicitation is official, administrative in nature, or originates from the recipients' place  
10 of business.

11 i. Engaging in any conduct which violates RCW 19.86, the Unfair  
12 Business Practices – Consumer Protection Act.

13 2. Defendant shall pay Plaintiff's costs and attorneys' fees in the amount of  
14 \$21,369.00. Interest on any unpaid balance of this amount shall accrue in the amount of 12%  
15 per annum;

16 3. Defendant shall pay \$500,000 in civil penalties; and

17 4. Defendant shall pay restitution in the amount of \$10,000 to the Seattle School  
18 District.

19 SO ORDERED this 19th day of May, 2005.

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22 RICARDO S. MARTINEZ  
23 UNITED STATES DISTRICT JUDGE  
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Presented by:

ROB McKENNA  
Attorney General

/s/ Katherine Tassi

KATHERINE TASSI, WSBA #32908

katherinet@atg.wa.gov

Assistant Attorney General

PAULA SELIS, WSBA #12823

Senior Counsel

paulas@atg.wa.gov

Attorneys for Plaintiff

State of Washington