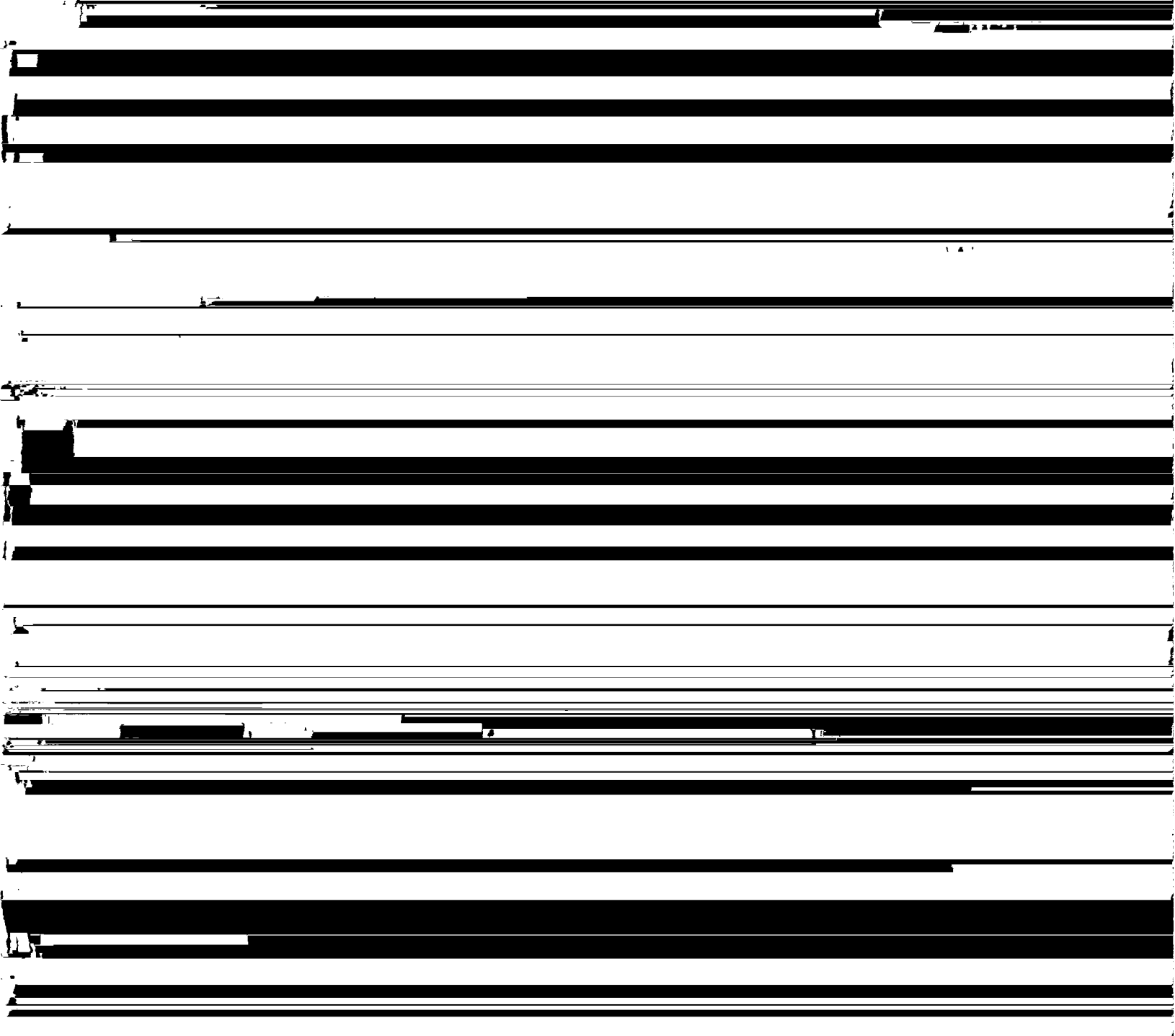


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HONORABLE W. VIEKING
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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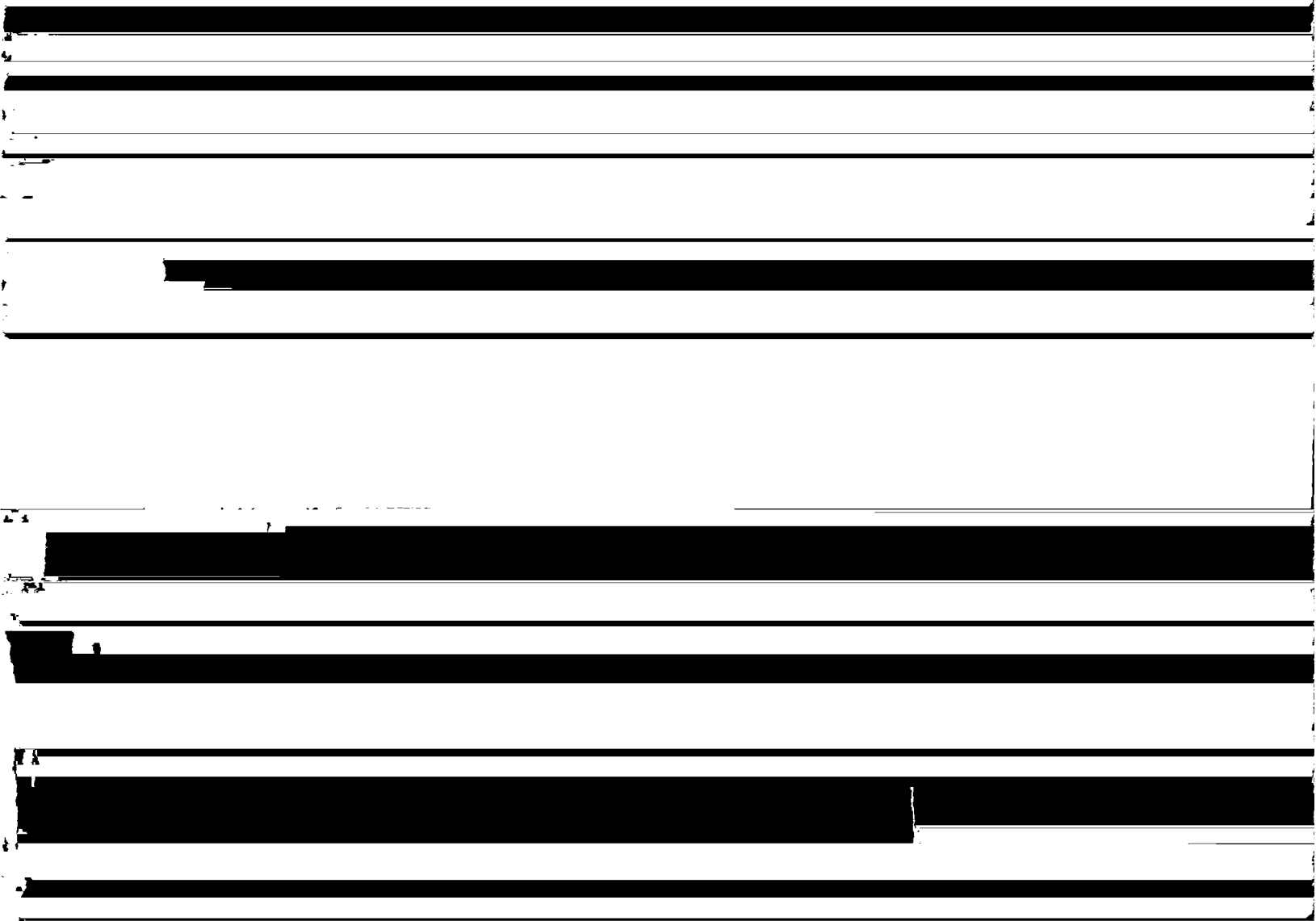
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1 1. Plaintiff brings this action under Sections 5(a), 5(m)(1)(A), 13(b), and 16(a) of the
2 FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and 56(a), and under Section 7(a) of the
3 Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-
4 SPAM” or the “CAN-SPAM Act”), 15 U.S.C. § 7706(a), to secure civil penalties, a permanent
5 injunction, and other equitable relief for Defendant’s violations of Section 5(a) of CAN-SPAM,
6 15 U.S.C. § 7704(a).

7 **JURISDICTION AND VENUE**

8 2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C.
9 §§ 45(m)(1)(A), 53(b), 56(a), and 7706(a), and 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355.



COMMERCE

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6. At all times relevant to this complaint, Defendant has maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

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11. Section 3(13) of the CAN-SPAM Act, 15 U.S.C. § 7702(13), defines “protected

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15. Section 7(a) of the CAN-SPAM Act, 15 U.S.C. § 7706(a), states:

[T]his Act shall be enforced by the [FTC] as if the violation of this Act were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the [FTC Act] (15 U.S.C. 57a(a)(1)(B)).

~~DEFEND YOUR BUSINESS BY NOTIFYING~~

1 the recipient's email address; (ii) clear and conspicuous notice of a recipient's opportunity to

2 decline to receive future commercial email messages from Defendant at the recipient's email

1 **COUNT III**

2 23. Defendant initiated the transmission, to protected computers, of a commercial
3 electronic mail message to numerous registered consumers that advertised or promoted
4 Defendant's services or Internet websites and failed to include Defendant's valid physical postal
5 address.

6 24. Therefore, Defendant's acts or practices, as described *supra*, violated Section
7 5(a)(5)(A)(iii) of the CAN-SPAM Act, 15 U.S.C. § 7704(a)(5)(A)(iii).

8 **INDIVIDUAL INJURY**

9 25. Individuals throughout the United States have suffered and will suffer injury as a
10 result of Defendant's violations of the CAN-SPAM Act. Absent injunctive relief by this Court,
11 Defendant is likely to continue to injure consumers and harm the public interest.

12 **THIS COURT'S POWER TO GRANT RELIEF**

13 26. Section 7(a) of the CAN-SPAM Act, 15 U.S.C. § 7706(a), provides that "[CAN-
14 SPAM] shall be enforced by the [FTC] as if the violation of this Act were an unfair or deceptive
15 act or practice proscribed under section 18(a)(1)(B) of the FTC Act (15 U.S.C.

1 27. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by
2 Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as
3 amended, and as implemented by 16 C.F.R. § 1.98(d), authorizes this Court to award monetary
4 civil penalties of not more than \$11,000 for each violation of CAN-SPAM. Defendant's
5 violations of CAN-SPAM were committed with the knowledge required by Section 5(m)(1)(A)
6 of the FTC Act, 15 U.S.C. § 45(m)(1)(A)

PRAYER FOR RELIEF

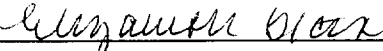
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WHEREFORE, Plaintiff requests that this Court, as authorized by Sections 5(a), 5(m)(1)(A) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A) and 53(b), and pursuant to its own equitable powers:

1. Enter judgment against Defendant and in favor of Plaintiff for each violation alleged in this complaint;

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