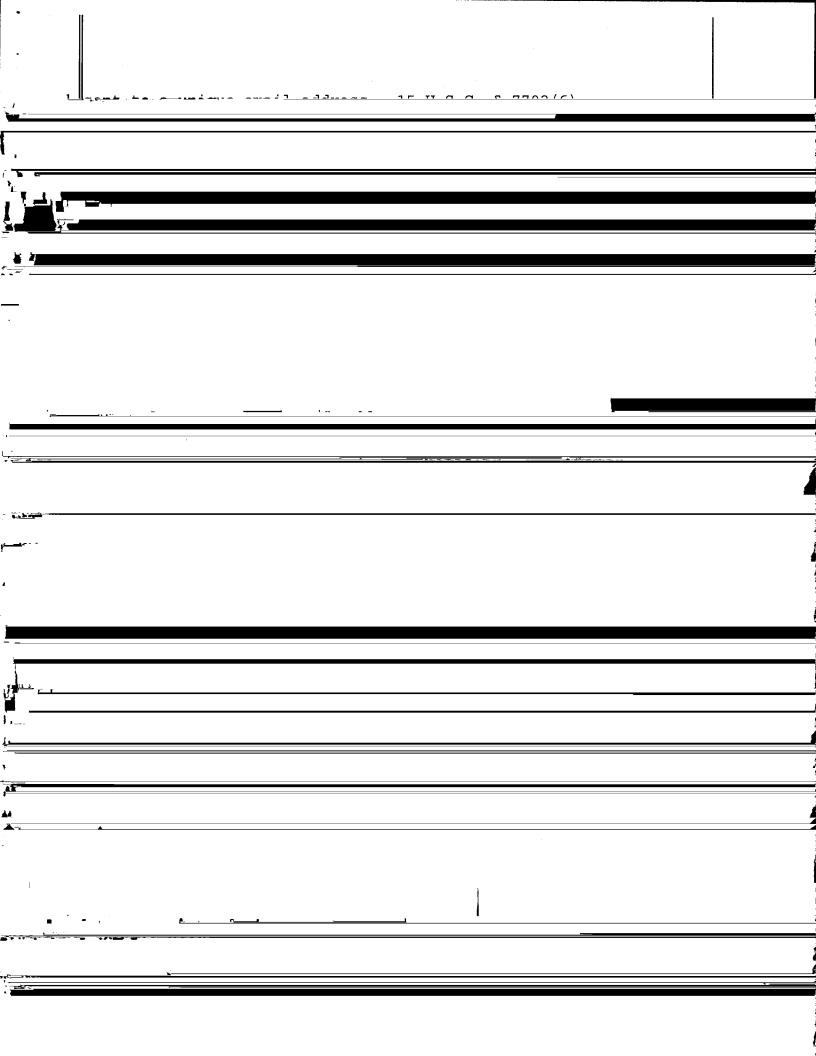


1 7(a) of the Controlling the Assault of Non-Solicited Pornography 2 and Marketing Act of 2003 ("CAN-SPAM" or the "CAN-SPAM Act"), 3 15 U.S.C. § 7706(a), to obtain monetary civil penalties, a 4 permanent injunction, and other equitable relief for defendant's



1 United States. 15 U.S.C. § 7702(13); 18 U.S.C. § 1030(e)(2)(B). 13. "Sender" means a person who initiates a commercial <u>[</u>__. 7472

1 Defendant or its affiliates. The landing page recapitulates and 2 expands upon Defendant's initial promised free merchandise offer. 3 For example, the landing page for Defendant's email offer 1 he pipiting generate hogome "googet abopporg" by testing and

1 that it never reached the consumer's inbox. Onto the concumen has submitted his or her nersonal 1... 17--

the promised free merchandise. For example, one of Defendant's third-party "platinum" promotions (within a "level 6" promised free merchandise offer) requires the consumer to subscribe to a year of satellite television at a cost of almost \$600. Other third-party promotions include DVD deliveries, CDs and music



1 purpose by Defendant. 29. Defendant is an "initiator" with respect to an email 3 message when it has either originated or transmitted a message 4 itself or has procured the origination or transmission of a 5 message through payments or other consideration, or inducements, to others. 30. Defendant is a "sender" with respect to an email

gardidoration to participate in Defendant's 1 4

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2 states:
            [T] his chapter shall be enforced by the [FTC]
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Section 7(a) of the CAN-SPAM Act, 15 U.S.C. § 7706(a),

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39.

amended, and as implemented by 16 C.F.R. § 1.98(d) (1997),
authorizes this Court to award monetary civil penalties of not
more than \$11,000 for each violation of CAN-SPAM. Defendant's
violations of CAN-SPAM were committed with the knowledge required
by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

45. This Court, in the exercise of its equitable
jurisdiction, may award ancillary relief to remedy injury caused
by Defendant's violations of CAN-SPAM and the FTC Act.

9	9 PRAYER FOR RELIEF							
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