

1 Daniel L. Balsam



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11 **I, Daniel L. Balsam, declare that:**

- 12 1. I was a resident of San Francisco, California from July 1999 through November 2002,  
13 and I am currently a resident of Los Angeles, California.
- 14 2. The following facts are based on my own personal knowledge, except as to those stated  
15 on information and belief, and as to those matters, I believe them to be true. If called as  
16 a witness, I could and would testify competently to them under oath.
- 17 3. I own two computers, which I personally purchased. I frequently use the Internet and  
18 email for personal and business matters, and I pay recurring fees to my Internet Service  
19 Provider and Yahoo! to do so. During 2002, I also owned a Palm Pilot with wireless  
20 email capability, and I paid per kilobyte to read my email on my Palm Pilot.

21 **Background on Mosaic**

- 22 4. Mosaic Data Solutions, Inc. (hereafter, "Mosaic"), a Delaware company with offices in  
23 California and Illinois, among other states, advertises products and solicits money by

1 sending unsolicited commercial email to recipients' email addresses, which is  
2 commonly known as "spamming." I know that Mosaic spams because Mosaic had no  
3 preexisting business or personal relationship with me; Mosaic began spamming me  
4 without my permission and not at my request; and Mosaic continued to spam me even  
5 after I followed their instructions to unsubscribe from receiving such spam *five times*  
6 and their own computer systems *confirmed* that I had unsubscribed.

- 7 5. Spamming is unlawful under the laws of many states, including California and Illinois.  
8 I know that California Business and Professions Code Section 17538.4 is designed to  
9 protect residents of California, and that it applies equally to in-state and out-of-state  
10 spammers, as opined by the Court in *Ferguson v. Friendfinders, Inc.*, 94 Cal. App. 4th  
11 1255, 115 Cal. Rptr. 2d 258 (Cal. App. 1st Dist. Jan. 2, 2002), review denied (Apr. 10,  
12 2002).
- 13 6. Mosaic used property of SBC and Yahoo! in California to send their spam in violation  
14 of the explicit privacy policies of SBC and Yahoo! ([Exhibit A](#)), and I believe they did  
15 so without the permission of SBC and Yahoo!. I know that this is a violation of  
16 California Business and Professions Code Section 17538.45.
- 17 7. By using email messages to market their products, Mosaic abuses the nature of the  
18 Internet and shifts the cost of marketing onto the (unwilling) recipients of their  
19 advertising messages. My computer's operation has suffered as a result of Mosaic's  
20 unlawful and unfair cost shifting. Reading Mosaic's spam on my Palm Pilot cost me  
21 money. I also suffered a violation of my right of privacy and have lost time reading,  
22 attempting to block, deleting, and responding to Mosaic's email advertising.

1 **Mosaic Relentlessly Spammed Me and Ignored Repeated Unsubscribe Requests**

- 2 8. Between April 5, 2002 and June 21, 2002, Mosaic sent eight spams ([Exhibit B](#)) to my  
3 personal email address and attempted to wrongfully solicit money from me. Mosaic  
4 also wrongfully attempted to solicit money from me two additional times via webpages  
5 accessible from hyperlinks in their spams.
- 6 9. Mosaic owns and/or operates the websites [www.customoffers.com](http://www.customoffers.com),  
7 [www.yourmailsource.com](http://www.yourmailsource.com), and [www.amazingofferings.com](http://www.amazingofferings.com) and spammed me using  
8 those domain names. I believe this to be true based on domain registration data and  
9 corporate financial data and management team listings on the websites ([Exhibit C](#)). The  
10 [customoffers.com](http://customoffers.com) domain is clearly registered to Mosaic. The [amazingofferings.com](http://amazingofferings.com)  
11 domain name is registered to YourMailSource.com, Inc., for which corporate  
12 registration data shows the name of Larry Organ and David Graf, and those names also  
13 appear on the “about us” page of the Mosaic website. Jeff Zweben, Vice President of  
14 CustomOffers.com, confirmed under direct questioning from the Judge during the trial  
15 on September 12, 2002, that Mosaic is behind all three domain names.
- 16 10. I know that Mosaic’s spams do not conform to legal requirements specified in  
17 California Business and Professions Code Section 17538.4. Specifically, the subject  
18 lines do not begin with “ADV:”, there is no valid return email address to which a  
19 recipient can opt-out, opt-out instructions are not the first text of the body of the  
20 message and in the same font size as the majority of the message, and Mosaic continued  
21 to spam me even after I followed their instructions five times to opt-out of their spam  
22 lists and their own computer systems confirmed five times that I had been removed  
23 from their lists ([Exhibit B](#)).

- 1 11. Mosaic first spammed me on April 5, 2002 (Subject: "Free Software for Dan Balsam"),  
2 although the "Sent" date was forged to show April 2. I followed Mosaic's instructions  
3 to unsubscribe from the spam list via web link on April and received confirmation that I  
4 would be unsubscribed within 2-3 business days. However, that website also  
5 wrongfully attempted to induce me to get a 35mm camera, which is another unsolicited  
6 commercial message.
- 7 12. Mosaic spammed me for the second time (Subject: "College Scholarship Report") on  
8 April 7, although the "Sent" date was forged to show April 3.
- 9 13. Mosaic spammed me for the third time (Subject: "Compare and Save on Auto  
10 Insurance!") on April 7, although the "Sent" date was forged to show April 5. I  
11 followed instructions to unsubscribe for the second time, and again the unsubscribe  
12 confirmation website contained the camera ad.
- 13 14. Mosaic spammed me for the fourth time on April 19 (Subject: "Get a Visa or  
14 MasterCard Today!"), although the "Sent" date was forged to show April 4. I believe  
15 that Mosaic deliberately forged the sent dates on their spams to make it *appear* as  
16 though they sent spams 2, 3, and 4 *before* my first unsubscribe attempt, which was on  
17 April 5. But spam #4 was really sent on April 19, which is long past the 2-3 days the  
18 first unsubscribe confirmation (April 5) stated that it would take to process the request.
- 19 15. Mosaic spammed me for the fifth time on April 25 (Subject: "CustomOffers  
20 Subscription – Automatic Enrollment Notice"). This spam alleged that I am a member  
21 of "Job Warehouse"; however I have no knowledge of what Job Warehouse is, I never  
22 enrolled in it, and I am not a member. Therefore, whatever "Job Warehouse" might be,

- 1 the owners of “Job Warehouse” acquired my email without my consent. This spam  
2 advised me that CustomOffers “has already enrolled” me to receive yet more spam.
- 3 16. Mosaic spammed me for the sixth time on April 29 with an identical email to the fifth.  
4 I followed instructions to unsubscribe via weblink for the third time on April 29 and  
5 again received a confirmation of unsubscribing.
- 6 17. Mosaic spammed me for the seventh time on June 11 with an email very similar to  
7 numbers five and six, except this one alleged that I was a member of “Search Hound”  
8 instead of “Job Warehouse.” This spam is particularly egregious because Mosaic gave  
9 me only one day’s notice – a deadline of June 12 – to unsubscribe before I would be  
10 automatically enrolled in yet another spam list managed by Mosaic. I followed  
11 instructions to unsubscribe via weblink for the fourth time on June 11 and again  
12 received a confirmation of unsubscribing.
- 13 18. Mosaic spammed me for the eighth time on June 21 alleging that they want “to ensure  
14 that email offers are sent only to those who wish to receive them” and purported to give  
15 me the opportunity to opt-out. I followed instructions to unsubscribe via weblink for  
16 the fifth time on June 21 and again received a confirmation of unsubscribing.
- 17 19. On July 18, Mosaic sent a spam to danbalsam@hotmail.com, another email address I  
18 use and with which I also *never* opted in to receive Mosaic’s commercial email. I  
19 unsubscribed on July 21 and received confirmation. Mosaic spammed this email  
20 address again on August 17. Even if there were some “error” with unsubscribing the  
21 Yahoo! address, I believe that the fact that Mosaic similarly spammed the hotmail email  
22 address even after I unsubscribed proves that they *systematically* ignore consumers’  
23 attempts to get off their spam lists. I believe that Defendants willfully and maliciously

1 ignore unsubscribe requests because there is no per-recipient cost to Mosaic to send  
2 email to as many people as they possibly can in the hopes that someone will respond to  
3 their emails and make a purchase.

4 **Mosaic's Privacy Policy (Or Lack Thereof)**

5 20. CustomOffers.com's privacy policy ([Exhibit D](#)) in effect at the time Mosaic was  
6 spamming me was in and of itself a violation of California law and of all reasonable  
7 business practices. The policy at the time stated that unsubscribing only stops emails  
8 "disseminated by the Company on its *own* behalf" [emphasis added]. But, Mosaic  
9 never sends any spam emails on its *own* behalf... Mosaic is an "email marketer" hired  
10 by clients to send out email and handle list management on *their* behalf. The privacy  
11 policy continued, "Former Company subscribers *may still receive electronic mailings*  
12 sent on behalf of third-parties and their personal information may still be shared with  
13 third parties for use in offline marketing and data appends, including email appends"  
14 [emphasis added]. By definition all email Mosaic sends is on behalf of third parties, so  
15 practically speaking, Mosaic had no privacy policy *at all* and would make no attempt to  
16 stop spamming me or other consumers, on behalf of their clients, despite repeated  
17 unsubscribe attempts. Subsequent to the trial, Mosaic changed its privacy policy as  
18 posted on the website [www.customoffers.com](http://www.customoffers.com); the new version removed the key phrase  
19 "Former Company subscribers may still receive electronic mailings sent on behalf of  
20 third-parties."

1 **Mosaic Knowingly Made False and Misleading Statements and Provided False and**  
2 **Misleading Information to the Court**

3 21. Because Mosaic refused to stop spamming me, even after I repeatedly requested that  
4 they do so, I had no choice but to file a lawsuit in pro per in the Small Claims Division  
5 of the Superior Court of California, County of San Francisco, on May 22, 2002. After  
6 several delays, the case was heard on September 12, 2002.

7 22. Jeff Zweben, Vice President of CustomOffers.com, was present for the trial. Zweben  
8 also brought with him a notarized statement from Larry Organ, General Manager of  
9 Mosaic Data Solutions, dated September 11, 2002 ([Exhibit E](#)). I know that, during the  
10 trial, Mosaic committed perjury through false and misleading statements that Mosaic  
11 *knew* to be false and misleading, and which were delivered verbally by Zweben *and in*  
12 *writing*, via Organ's statement.

13 23. The Organ statement claimed that "*Dan Balsam's email address*  
14 *(danbalsam@yahoo.com) was legally purchased from Mindset Interactive on December*  
15 *27, 2001. Attached... is a copy of the acquisition/insertion order reflecting same.*"

16 While there was a purchase order from Mindset Interactive ([Exhibit F](#)) attached to the  
17 Organ statement, nowhere does the purchase order reflect that *this* was the means by  
18 which Mosaic acquired the danbalsam@yahoo.com email address, and it is false to  
19 claim that the purchase order "reflects same." The fact that there is a purchase order  
20 does not make it "legal" anyway. However, the purchase order *does* say that  
21 CustomOffers will send an email to list members offering them the opportunity to opt  
22 out from their spam, and will purge those members who do opt out from the email.  
23 Since I unsubscribed five times, and Mosaic confirmed same, and Mosaic still

1 continued to spam me, I know that Mosaic was willfully or negligently breaching the  
2 terms of its own purchase order. Regardless, I never opted-in to receive commercial  
3 email from Mosaic *or* Mindset Interactive. I have no knowledge of Mindset Interactive,  
4 but I believe they themselves acquired my email address illegally. However, even if it  
5 were true (which it is not), per Zweben's assertion during trial, that I did in the past opt  
6 in to an email list managed by Mindset Interactive, then perhaps Mosaic's *first*  
7 commercial email message to me was not in fact unsolicited. But because I  
8 immediately attempted to unsubscribe from Mosaic's spam list upon receipt of the first  
9 spam, then all subsequent emails from Mosaic to me *were* unsolicited.

10 24. The Organ statement claimed that "*That address [danbalsam@yahoo.com] received*  
11 *emails from Mosaic Data Solutions until Mr. Balsam unsubscribed on April 29, 2002 at*  
12 *which point no further emails were sent.*" There are two statements in that sentence  
13 that are very easy shown to be false. I first unsubscribed on April 5, and Mosaic  
14 continued to spam me through June 21.

15 25. The Organ statement claimed that "*Mosaic Data Solutions Inc. is not aware of any state*  
16 *or federal laws prohibiting spam.*" Even if this claim *were* true (not that ignorance of  
17 the law is not an excuse for breaking the law), if Mosaic really were "not aware" of any  
18 such laws, that would only prove their negligence since they are in the business of  
19 "email marketing." Mosaic had a duty to research California law before spamming a  
20 California resident, and they had a further duty to stop spamming me once I requested  
21 that they stop spamming me. Mosaic breached that duty and caused damage to me by  
22 that breach. But Organ's statement is *not* true, as clearly demonstrated by the fact that  
23 *Organ actually attached 17538.4 to his statement when he submitted it to the Court!* So



1 obviously Organ was *very* aware of California law, and yet he chose to make a false  
2 statement under oath.

3 26. The Organ statement claimed that “... *The most common definition ascribed to spam is*  
4 *email from which the user cannot unsubscribe or email which does not identify the*  
5 *sender.*” That sentence is false. The most common definition for spam is “unsolicited  
6 commercial email.” “Unsolicited,” meaning I did not ask to receive it... and in fact I  
7 made every effort to stop receiving it. And “commercial,” meaning that Mosaic was  
8 attempting to solicit money from me on behalf of itself and/or its clients. Not allowing  
9 users to unsubscribe and disguising the sender’s identity do not *define* spam, although  
10 both of those characteristics are *typical* of spam.

11 27. The Organ statement continued, “*Every email deployed by Mosaic Data Solutions Inc.*  
12 *allows users to unsubscribe, and within the header clearly identifies information about*  
13 *the company.*” The first part of this sentence is false, because Mosaic’s spams do not  
14 allow users to unsubscribe. The spams do have links that consumers can click to  
15 *attempt* to unsubscribe, but I did so five times – and received confirmations – and yet  
16 Mosaic still kept spamming me. So Mosaic does *not*, in fact, allow users to  
17 unsubscribe. I had to file a lawsuit to make them stop. The second part of the sentence  
18 is also false, because the header does *not* clearly identify the *company* (Mosaic) behind  
19 the spam; in fact, it doesn’t identify Mosaic at *all*. Rather, the headers show  
20 “CustomOffers.com” and “AmazingOffers.com” through which Mosaic does business.  
21 To trace all of the spam to Mosaic, I had to use: 1) Records on file with the domain  
22 registrars to determine ownership of the actual domains CustomOffers.com,  
23 AmazingOffers.com, and YourMailSource.com, 2) Management Team data from the

1 CustomOffers.com website and the Mosaic.com website to match the names of Organ  
2 and Mr. David Graf, President of Mosaic Performance Solutions North America, to  
3 both YourMailSource.com and CustomOffers.com, 3) Corporate records available on a  
4 website operated by the State of Illinois ([Exhibit C](#)). Only by putting all of this  
5 information together could I determine that AmazingOffers spam comes from  
6 YourMailSource, and Mosaic Data Solutions is the entity behind YourMailSource and  
7 CustomOffers. This is *anything* but “clear.”

- 8 28. The Organ statement continued, “*Furthermore, Mosaic Data Solutions Inc. meets the*  
9 *requirements specified under California Business and Professions Code Section*  
10 *17538.4.*” Besides the fact that referencing 17538.4 shows that Organ *was* aware of  
11 California’s anti-spam law and thus proves his previous statement to be a lie, since  
12 Organ attached 17538.4 to his statement, it is reasonable to assume that Organ might  
13 have actually read 17538.4 and learned what the law says. Therefore, Organ *knowingly*  
14 made false statements under oath, because Mosaic’s spam consistently violates multiple  
15 provisions of 17538.4. Specifically, the spams violate the following paragraphs: (a)  
16 Sending emails without a toll-free number or return address where consumers can notify  
17 the sender to stop sending unsolicited documents; (b) Not including unsubscribe  
18 instructions as the first text in the body of the message and usually unsubscribe  
19 instructions are not the same size as the majority of the body text; (c) Continuing to  
20 spam me even after being notified not to send any more spam; (e) Spamming even  
21 though there is no preexisting relationship between Mosaic and myself, and I made  
22 every effort to stop them from sending spam; and (g) Not starting subject lines with  
23 “ADV:” (which would allow me to easily filter out the spam, which is precisely why

1 they don't do it). All of 17538.4 applies because the spam is being delivered to a  
2 California resident via an email provider's service and equipment in California in  
3 violation of SBC and Yahoo! privacy policies, per 17538.45 (c).

4 **29. I know that as of September 11, 2002 – the date of Organ's sworn statement which**  
5 **refers to 17538.4 – if not earlier, Mosaic had full knowledge of the legal**  
6 **requirements for commercial email specified by California Business and**  
7 **Professions Code Section 17538.4. Therefore, I believe that any and all unsolicited**  
8 **commercial email sent to California residents subsequent to that date must be**  
9 **done so in a willfully malicious manner in conscious disregard of California law.**

10 30. The Organ statement continued, *"On or about June 12, 2002, I had a telephone*  
11 *conversation with Dan Balsam at which time he claimed to be a self-appointed vigilante*  
12 *whose goal was to rid the internet of commercial advertising."* This is false. While  
13 Organ and I did have a conversation on or about that date, I never made that claim.  
14 One, a vigilante is someone who goes outside the law, whereas I was following proper  
15 legal channels in order to enforce duly enacted California law against Mosaic in order to  
16 stop their illegal actions. Two, I recognize that while the vast majority of consumers  
17 and computer network administrators hate spam, and many major consumer  
18 publications such as *Time* and *Business Week* have printed articles about the growing  
19 spam problem, and California and the U.S. government are currently in the process of  
20 strengthening the anti-spam laws, there may in fact be some consumers somewhere who  
21 actually want to receive this sort of commercial email and opted-in to do so, and I never  
22 claimed to be trying to stop *that*. What I actually said was that I was trying to rid the  
23 Internet of *illegal, unsolicited* commercial advertising.

1 31. Judgment was entered in my favor on September 17, 2002 ([Exhibit G](#)). The Judge also  
2 denied Mosaic's counterclaim for \$2,250 for travel and lost production time for  
3 Zweben.

4 32. Mosaic filed an appeal, which would have been heard on December 4, 2002, but then  
5 Mosaic withdrew the appeal at the last minute and without notifying me. Mosaic  
6 therefore accepted the original verdict and paid me the judgment of \$250 plus \$50 costs.

7 **33. I know that Mosaic has already been convicted by a California Court of illegal**  
8 **spamming activities targeting California residents and yet apparently continues to**  
9 **spam California residents anyway.**

10  
11 **Verification**

12 I declare under penalty of perjury under the laws of the State of California that the above is true  
13 and correct. Executed this 8th day of July, 2003 at San Francisco, California.

14 [signed]\_\_\_\_\_

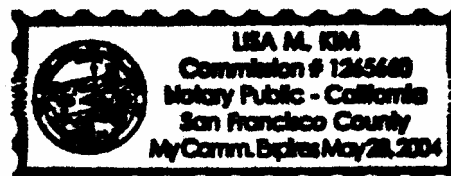
15 Daniel L. Balsam

16  
17  
18 SWORN TO AND SUBSCRIBED

19 Before me this 8<sup>th</sup> day of July, 2003

20  
21 Lisa M. Kim

22 Notary



## **LIST OF EXHIBITS**

- A: SBC and Yahoo! Privacy Policies
- B: Mosaic Spam and My Unsubscribe Attempts
- C: Mosaic Owns and/or Operates CustomOffers.com, YourMailSource.com, and AmazingOfferings.com
- D: CustomOffers.com Privacy Policy
- E: Sworn Statement of Larry Organ, Dated September 11, 2002
- F: Purchase Order from Mindset Interactive
- G: Verdict for Plaintiff

**EXHIBIT A**

**SBC and Yahoo! Privacy Policies**



## DSL Internet Center

### Question:

Why am I getting junk email? Are you selling my email address?

### Answer:

Answer last updated: 05-02-02

To ensure your privacy, Pacific Bell Internet Services does not sell or publicize your email address.

There is a variety of software that permits a bulk mailer to send messages to a large number of recipients on a particular Internet provider (such as Pacific Bell Internet Services), even if they do not know their specific addresses. We believe spammers may track which addresses came back as undeliverable, and remove those addresses from their lists. The valid addresses are then made into mailing lists, and sold to other spammers. This is why you see junk email which appears to be targeted at an alphabetical list of customers, or why you receive spam at an address which you may not have ever used or publicized.

Pacific Bell Internet Services provides Internet service for SBC Pacific Bell DSL Internet access service.



### What is Yahoo!'s spam and abuse policy?

The Yahoo! Terms of Service ("TOS") forbids email abuse. It is very important to us that any violations of these policies are identified and addressed. We appreciate your assistance enforcing these policies.

You agree to not use Yahoo! to:

1. upload, post, email or otherwise transmit any Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;

...

7. upload, post, email or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, except in those areas (such as shopping rooms) that are designated for such purpose;

**EXHIBIT B**

**Mosaic Spam and My Unsubscribe Attempts**



From: Thank You [Thank\_You@amazingofferings.com]  
To: DANBALSAM@YAHOO.COM  
Cc:  
Subject: Free Software for Dan Balsam

Sent: Tue 4/2/2002 5:20 PM

Thank you, Dan:

*Thank You God!*

I'm pleased to announce the availability of one of the best deals on the internet ever discovered by our editors.

You get your choice of free software with retail values up to \$99.95.  
(You just pay for shipping & handling.)

What kind of free software  
are you interested in...

- ☒ Entertainment Software
- ☐ Productivity Software
- ☒ Educational Software
- ☐ Lifestyle Software
- ☐ Home & Garden Software
- ☐ Free Music
- ☐ All of the Above!

Submit



[Click here for  
more than 100 other free choices!](#)

If the above links do not work or appear, simply copy this URL and paste it into your browser's address field:  
<http://www.amazingofferings.com/click.asp?lnk=483&email=DANBALSAM@YAHOO.COM>

If you feel that you have received this offer in error, or if you wish to unsubscribe from AmazingOfferings, please [click here](#) or link to  
[http://www.amazingofferings.com/unsubscribe.asp?emid=&ds=\\*&DS;&email=DANBALSAM@YAHOO.COM](http://www.amazingofferings.com/unsubscribe.asp?emid=&ds=*&DS;&email=DANBALSAM@YAHOO.COM)

(screen shot capture)

From: Balsam, Dan [DBalsam@visa.com]  
To: 'danbalsam@yahoo.com'  
Cc:  
Subject: Amazing Offerings Unsubscribe Confirmation

Sent: Fri 4/5/2002 10:30 AM

## UNSUBSCRIBE

Your request has been received. Please note that it may take 2-3 business days to process.

**Get your FREE 35mm Camera now!**



**Start taking great  
photos today  
with  
your very own  
FREE 35mm Camera!**

**This focus-free point & shoot  
camera has a built in hot-shoe  
for flash photography!**

***Click here to get yours!***

From: Scholarships [Scholarships@amazingofferings.com]  
To: DANBALSAM@YAHOO.COM  
Cc:  
Subject: College Scholarship Report

Sent: Wed 4/3/2002 9:01 PM

## Higher Education Scholarship Outlook

Your #1 source for free scholarship information



Spring 2002

[click here now!](#)

April 4, 2002

### College News Flash:

Scholarships can significantly reduce the cost of college and are available to almost all students, including you! [Click here](#) to complete your **FREE college scholarship report**.

Dear Friend,

Congratulations! You are eligible to receive up to \$20,000 in college scholarships and financial aid\*, including:

- \$500-\$3,000 "Institute for Brand Leadership" Essay Scholarship Contest
- \$1,000 "All-Ink" College Scholarship

To receive your complete [college scholarship report](#), [click here now](#).

**Note:** Some scholarships require an immediate response! To get started, [click here now](#)! This is a free service provided to assist you in finding money for college.

**Important information about [your free scholarship report](#)**

**Q: HOW MANY SCHOLARSHIPS ARE AVAILABLE?**

A: More than [600,000 scholarships](#)

**Q: I DON'T HAVE HIGH GRADES OR FINANCIAL NEED, AM I STILL ELIGIBLE?**

A: YES! Many of the [600,000 scholarships](#) are awarded based on skills, interests or hobbies, rather than grades or financial need.

**Q: DO I HAVE TO PAY FOR THIS SCHOLARSHIP REPORT?**

A: NO! This is a [free service](#) recommended by more than 17,000 guidance counselors and financial aid officers across the country. In total, over 15 million students have used this

[free service to find scholarship money](#) since 1995

**Q: HOW IS MY SCHOLARSHIP REPORT GENERATED?**

A: The scholarships listed in this email are a sample. Your complete [scholarship report](#) will include additional scholarships that are exactly matched to your skills and interests, based on a brief, online profile.

It only takes a few moments to complete your [FREE scholarship report](#). [Click here now](#) and find the money you need!

\*Eligibility assumes that you are a US Citizen with a 2.5+ GPA who would use the scholarship to attend an undergraduate or graduate program full-time at an accredited four-year college. Some scholarships are available to students who attend two-year colleges. Partial [scholarships](#) are sometimes available to students who attend part-time. Individual results vary. Students may receive more or less than \$20,000 in combined college scholarships, grants, and low-interest loans, from both government and private sector sources. Your [college scholarship report](#) focuses on private sector sources. Students are encouraged to also seek financial aid from the government and their college.

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If the above links do not work or appear, simply copy this URL and paste it into your browser's address field:  
<http://www.amazingofferings.com/click.asp?lnk=492&email=DANBALSAM@YAHOO.COM>

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If you feel that you have received this offer in error, or if you wish to unsubscribe from AmazingOfferings, please [click here](#) or link to [http://www.amazingofferings.com/unsubscribe.asp?emid=&ds=&\\*DS;&email=DANBALSAM@YAHOO.COM](http://www.amazingofferings.com/unsubscribe.asp?emid=&ds=&*DS;&email=DANBALSAM@YAHOO.COM)

From: Automotive Protection [Automotive\_Protection@amazingofferings.com]  
To: DANBALSAM@YAHOO.COM  
Cc:  
Subject: Compare and Save on Auto Insurance!

Sent: Fri 4/5/2002 5:03 PM

## Get a Great

# Auto Insurance Rate Now!

with  **INSWEB®**

### Compare Multiple Quotes at InsWeb

With just one form, this free service makes it easy for you to shop for Auto Insurance from many of the nation's leading insurance companies.



Discover all the benefits of buying your auto insurance online from InsWeb. **Get your free quote from InsWeb today!**

Click here and see how much you'll save

Rated by Yahoo Internet Life as "Best Auto Insurance Site" - February 2001

If the above links do not work or appear, simply copy this URL and paste it into your browser's address field:  
<http://www.amazingofferings.com/click.asp?lnk=526&email=DANBALSAM@YAHOO.COM>

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If you feel that you have received this offer in error, or if you wish to unsubscribe from AmazingOfferings, please [click here](#) or link to <http://www.amazingofferings.com/unsubscribe.asp?emid=335&ds=5&email=DANBALSAM@YAHOO.COM>

(screen shot)

From: Dan Balsam [danbalsam@yahoo.com]  
To: Dan Balsam  
Cc:  
Subject: Emailing: showmessage

Sent: Sun 4/7/2002 10:39 AM

## UNSUBSCRIBE

Your request has been received. Please note that it may take 2-3 business days to process.

**Get your FREE 35mm Camera now!**



**Start taking great  
photos today  
with  
your very own  
FREE 35mm Camera!**

**This focus-free point & shoot  
camera has a built in hot-shoe  
for flash photography!**

***Click here to get yours!***

From: Income Supplement [Income\_Supplement@amazingofferings.com]  
To: DANBALSAM@YAHOO.COM  
Cc:  
Subject: Get a VISA or MasterCard Today!

Sent: Thu 4/4/2002 7:46 PM

**Get Your Credit  
Back on Track!**

## **A Special Opportunity**

Dear Friend,



Are past credit problems keeping you from getting a credit card? If so, you are probably inconvenienced daily trying to use a credit card for transactions such as making purchases over the Internet, renting a car or reserving a hotel room. What about not having an emergency source of money at a moment's notice?

### **[GET AN UNSECURED MASTERCARD OR VISA NOW!](#)**

If you are working to get your credit back on track, a First PREMIER Bank Credit Card can help! Receive up to a \$1,000 credit limit, plus enjoy the benefits of ATM Cash Advances.

### **[GET YOUR CREDIT BACK ON TRACK!](#)**

Remember, good credit is an important part of your financial future, and it's our pleasure to help you build that future. In addition to establishing your good credit, you will be eligible for a credit limit increase review in just 6 months! So click below and PRE-QUALIFY NOW.

### **[PREMIER CREDIT CARD](#)**

Thank you

This email was sent to you by CustomOffers, a marketing partner of First PREMIER Bank, not from the Bank itself.

If the above links do not work or appear, simply copy this URL and paste it into your browser's address field:  
<http://www.amazingofferings.com/creative/osclicke.asp?lnk=518&email=DANBALSAM@YAHOO.COM>

---

If you feel that you have received this offer in error, or if you wish to unsubscribe from AmazingOfferings, please [click here](#) or link to <http://www.amazingofferings.com/unsubscribe.asp?emid=327&ds=5&email=DANBALSAM@YAHOO.COM>



From: Job Warehouse [JobWarehouse@customoffers.com]  
To: DANBALSAM@YAHOO.COM  
Cc:  
Subject: CustomOffers Subscription -- Automatic Enrollment Notice

Sent: Thu 4/25/2002 4:33 PM

Dear daniel,

As a valued member of Job Warehouse, we are proud to bring you news of our latest relationship with CustomOffers.com, and automatically enroll you in their fabulous network. We thought you'd be interested because they too deliver valuable discounts, special offers, sweepstakes, and entertainment reviews from companies such as AOL/Time Warner, AT&T, Sears, BMG, Chase and Earthlink! So you can begin gaining all the advantages of membership, CustomOffers has already enrolled you to receive your emails introducing you to the "best of the web".

If you do not wish to receive any email offers from the CustomOffers Network, simply click on the link below for an automatic deletion. It's that easy.

Your Friends at Job Warehouse.

If you do not wish to receive email from CustomOffers, please click or copy and paste the following address into your browser:

<http://web1.customoffers.com/click.asp?lnk=4326&email=DANBALSAM@YAHOO.COM>

<http://www.customoffers.com/privacy.html>

From: Job Warehouse [JobWarehouse@customoffers.com]  
To: DANBALSAM@YAHOO.COM  
Cc:  
Subject: CustomOffers Subscription -- Automatic Enrollment Notice

Sent: Mon 4/29/2002 5:39 PM

Dear daniel,

As a valued member of Job Warehouse, we are proud to bring you news of our latest relationship with CustomOffers.com, and automatically enroll you in their fabulous network. We thought you'd be interested because they too deliver valuable discounts, special offers, sweepstakes, and entertainment reviews from companies such as AOL/Time Warner, AT&T, Sears, BMG, Chase and Earthlink! So you can begin gaining all the advantages of membership, CustomOffers has already enrolled you to receive your emails introducing you to the "best of the web".

If you do not wish to receive any email offers from the CustomOffers Network, simply click on the link below for an automatic deletion. It's that easy.

Your Friends at Job Warehouse.

If you do not wish to receive email from CustomOffers, please click or copy and paste the following address into your browser:

<http://web1.customoffers.com/click.asp?lnk=4326&email=DANBALSAM@YAHOO.COM>

<http://www.customoffers.com/privacy.html>

(screen shot)

From: Dan Balsam [danbalsam@yahoo.com]  
To: Dan Balsam  
Cc:  
Subject: Emailing: OptOUT.html

Sent: Mon 4/29/2002 8:24 PM

To **unsubscribe** from future mailings, please enter your email address below.

danbalsam@yahoo.com

☐ **Yes** ☐ **No Thanks**

President Bush and the Republican Party need your support. Sign up today to receive email updates on party activity and important issues that affect our nation. Get involved and make a difference.

☐ **Yes** ☐ **No Thanks**

Yes, sign me up for a chance to win cash at online casinos and free gifts from afreeprize and receive money-saving specials from American Email Brands, Yes-Brands, Blue Chip Brands, Smart Discounts, LuxuryPlay and its marketing partners.

☐ **Yes** ☐ **No Thanks**

Find the best values on the Internet! MyValuePlanet's daily newsletter reviews the best Internet shopping sites - finding those that give you the most value for your money. Plus, you'll have access to our top value indexes in over 12 categories like entertainment, travel, and electronics.

☐ **Yes** ☐ **No Thanks**

iExpect.com! Yes! Send me Weather, Music, Lottery & more by email from iExpect.com. Also send me Special Offers and other exciting promotions via email from iExpect.com, BargainJungle, and their partners.

☐ **Yes** ☐ **No Thanks**

For Southern California Residents only! Attend a free seminar on Saturday, April 27th in Anaheim California with Mark Victor Hansen (co-author of Chicken Soup for the Soul) and Robert G. Allen (Nothing Down). In this special session, they'll kick off their upcoming new book "The One Minute Millionaire." Register now to reserve your free ticket (only 400 free seats available). You'll be contacted with additional information immediately.

[Click here to unsubscribe](#)

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(screen shot)

From:	Dan Balsam [danbalsam@yahoo.com]	Sent:	Mon 4/29/2002 8:32 PM
To:	Dan Balsam		
Cc:			
Subject:	CustomOffers Emailing: OptOUT_post.html		

**THANK YOU...** This confirms that **DANBALSAM@YAHOO.COM** has been **unsubscribed** from future mailings.

Depending on the time of day your unsubscribe request was received, it is possible that you may receive an additional mailing from us before our database is updated.

From: Search Hound [SearchHound@customoffers.com]  
To: DANBALSAM@YAHOO.COM  
Cc:  
Subject: Automatic Enrollment

Sent: Tue 6/11/2002 2:47 PM

Dear Member,

As a valued member of Search Hound, we are proud to bring you news of our latest relationship with CustomOffers.com. We thought you'd be interested in this service because they too deliver valuable discounts, special offers, sweepstakes, and entertainment reviews from companies such as AOL/Time Warner, AT&T, Sears, BMG and Chase! At no cost to you, we will automatically enroll you in their fabulous networks on 6/12/02 unless you choose otherwise.

If you do not wish to receive any email offers from either the CustomOffers Network, simply click now on the link below for an automatic deletion, and you will not receive anything more. It's that easy. Otherwise, do nothing now and try out your new service for free! If you decide in the future that it's not for you, you will always have the option of unsubscribing at that time. An unsubscribe link will be provided for you in each email offer you receive.

Welcome to the "Best of the Web!"

If you do not wish to receive email from CustomOffers, please click or copy and paste the following address into your browser:

[http://web1.customoffers.com/optout\\_pixel.asp?email=DANBALSAM@YAHOO.COM&company\\_id=441](http://web1.customoffers.com/optout_pixel.asp?email=DANBALSAM@YAHOO.COM&company_id=441)

CustomOffers Privacy Policy:

<http://www.customoffers.com/privacy.html>

(screen shot)

From: Dan Balsam [danbalsam@yahoo.com] Sent: Tue 6/11/2002 7:43 PM  
To: Dan Balsam  
Cc:  
Subject: Emailing: optout\_pixel.aspemail=DANBALSAM@YAHOO.html

## **AUTOMATIC ENROLLMENT CANCELLED**

You will not receive future messages from CustomOffers.

From: CustomOffers [CustomOffers@customoffers.com]  
To: DANBALSAM@YAHOO.COM  
Cc:  
Subject: Subscription Update

Sent: Fri 6/21/2002 3:31 PM

Dear Member,

CustomOffers has recently begun sending you email with opportunities to receive valuable discounts, special offers, sweepstakes, and entertainment reviews from companies such as AOL/Time Warner, AT&T, Sears, BMG and Chase! As a marketing partner of one of the sites you joined (opted-in) at, we were told that you were interested in CustomOffers? services.

Since we want to ensure that email offers are sent only to those who wish to receive them, we'd like to make certain that you are indeed enjoying our fabulous network. We take consumer privacy very seriously, and that's why we want to make sure you have the opportunity to choose what mail gets delivered to your inbox.

So, if you are enjoying all the benefits and money-saving opportunities that CustomOffers provides, simply do nothing now and your offers will resume mailing on Tuesday, June 25, 2002. But if you decide that our service is not for you, simply click now (or anytime before Tuesday, June 25, 2002) on the link below for an automatic deletion, and you will not receive anything more.

Otherwise, do nothing now and continue participating in our service for free! If you decide in the future that it's not for you, you will always have the option of unsubscribing at that time. As always, an unsubscribe link will be provided for you in each email offer you receive.

Regards,

The CustomOffers Team

If you do not wish to receive email from CustomOffers, please click or copy and paste the following address into your browser:

[http://web1.customoffers.com/optout\\_pixel.asp?email=DANBALSAM@YAHOO.COM&company\\_id=441](http://web1.customoffers.com/optout_pixel.asp?email=DANBALSAM@YAHOO.COM&company_id=441)

CustomOffers Privacy Policy:

<http://www.customoffers.com/privacy.html>

(screen shot)

From: Dan Balsam [danbalsam@yahoo.com] Sent: Fri 6/21/2002 4:03 PM  
To: Dan Balsam  
Cc:  
Subject: Emailing: optout\_pixel.aspemail=DANBALSAM@YAHOO.html

## **AUTOMATIC ENROLLMENT CANCELLED**

You will not receive future messages from CustomOffers.



**From :** "Wireless Deals" <Wireless\_Deals@customoffers.com>  
**Reply-To :** mailings@customoffers.com  
**To :** DANBALSAM@HOTMAIL.COM  
**Subject :** Get your FREE Nokia 3390 Cell Phone! NOW!  
**Date :** Thu, 18 Jul 2002 11:10:43 -0400

The advertisement features a purple and white background with circular patterns. In the top left, the VoiceStream logo is displayed with the text "Global Wireless by T-Mobile" and "Authorized Dealer". In the top right, three benefits are listed: "Unlimited Weekend Minutes", "Free Nationwide Long Distance", and "Free Digital Roaming". The central focus is the text "Free\* Nokia 3390" in large blue letters, followed by "with the Get More Plan only \$39.99 a month" in red. To the left of this text is a gold Nokia 3390 cell phone. To the right is a smiling woman with long brown hair, wearing a light blue top and a silver bracelet, holding a black cell phone to her ear. Between the phone and the woman, a list of features is provided: "Other phone & Plan Features Include: 500 Plan Minutes, 50 AOL Instant Messenger™ Messages, SMS 2-way Txt messaging, Caller ID, Call Waiting, & Call Hold, T9® Predictive Txt Input". Below the phone is a blue button that says "CLICK HERE" in white, with "for more info" underneath. To the right of the phone, there is a circular graphic containing the text "or get 2 Free\* Phones with a Family Plan" and a red "CLICK HERE" button.

Click the links above or call **1-800-300-7066** mention bonus code 14133 and refcode 717cpm

\* Phone free after instant rebate. This offer is fulfilled by InPhonic, an authorized dealer for VoiceStream Wireless. Offer subject to credit approval or deposit, and is available to customers activating a new line of service on a one-year contract with VoiceStream Wireless. Not all US markets are served by VoiceStream Wireless. If you are in a non-VoiceStream Wireless area you will receive another great offer from another major wireless company. Other restrictions apply, see full offer for details. Offer Expires July 31, 2002. Offer may vary.

If the above links do not work or appear, simply copy this URL and paste it into your browser's address field:  
<http://web1.customoffers.com/click.asp?lnk=6202&email=DANBALSAM@HOTMAIL.COM>

Your privacy is extremely important to us. You requested to receive this mailing, by registering at CustomOffers.com or by subscribing through one of our marketing partners. As a leader in email marketing, we are committed to delivering a highly rewarding experience, with offers that include bargains, entertainment, and money-making ideas. However, if you wish to unsubscribe, [click here](#) or link to <http://web1.customoffers.com/unsubscribe.asp?emid=3467&email=DANBALSAM@HOTMAIL.COM> Third-party offers contained in this email are the sole responsibility of the offer originator.

(screen shot)

**From :** "Dan Balsam" <danbalsam@yahoo.com>  
**To :** <danbalsam@hotmail.com>  
**Subject :** customoffers unsubscribe  
**Date :** Sun, 21 Jul 2002 10:17:18 -0700



[Home](#) [Register Now](#) [Your Account](#) [Free Camera](#) [About Us](#) [Privacy Policy](#)

### Unsubscribe Confirmation

This confirms that DANBALSAM@HOTMAIL.COM has been unsubscribed from future CustomOffers mailings. Depending on the time of day that your unsubscribe request was entered, it is possible that you may receive an additional mailing from CustomOffers before our database is updated.

Copyright © 2002 Mosaic Data Solutions. All rights reserved.

**From :** "Custom Offers" <customoffers@emza.net>  
**To :** danbalsam@hotmail.com  
**Subject :** New member status. Open to cancel.  
**Date :** Sat, 17 Aug 2002 08:54:55 -0800 (PDT)

Dear Member,

Thank you for being part of the Custom Offers community in which we do our best to make the Internet exciting and beneficial by introducing our members to great promotional offers, valuable discounts, bargains and sweepstakes, as well as entertainment, travel and financial opportunities. As part of your membership with CustomOffers, we've agreed to share with you third party promotions from our affiliates. All of our affiliates are carefully selected, ensuring that our members get only the most responsible, reliable, and of course, exciting, promotional offers. Continuing our tradition of providing you with the best the Internet has to offer, we would like to introduce you to our new affiliate, National Prizes. The name says it all. You will have the opportunity to take advantage of numerous free prizes, special offers and members-only promotions from this brand new partner.

As always, you may choose to terminate your membership with National Prizes and unsubscribe from its mailing list at any time. Each email offer National Prizes sends will contain an unsubscribe link. If you do not wish to participate in National Prizes simply [click here](#).

Separately, if you wish to unsubscribe from CustomOffers' mailing list, please click here:  
[http://web1.customoffers.com/unsubscribe.asp?emi\\_d=4226&email=](http://web1.customoffers.com/unsubscribe.asp?emi_d=4226&email=)

(As noted above, you will need to unsubscribe from CustomOffers and National Prizes separately.)

To review the National Prizes privacy policy [click here](#).

Thank you again and please do not hesitate to contact us with any questions you might have!  
Sincerely,  
Your friends at Custom Offers

**EXHIBIT C**

**Mosaic Owns and/or Operates CustomOffers.com, YourMailSource.com, and  
AmazingOfferings.com**



## WHOIS Search Results

The data in Register.com's WHOIS database is provided to you by Register.com for information purposes only, that is, to assist you in obtaining information about or related to a domain name registration record. Register.com makes this information available "as is," and does not guarantee its accuracy. By submitting a WHOIS query, you agree that you will use this data only for lawful purposes and that, under no circumstances will you use this data to: (1) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via direct mail, electronic mail, or by telephone; or (2) enable high volume, automated, electronic processes that apply to Register.com (or its systems). The compilation, repackaging, dissemination or other use of this data is expressly prohibited without the prior written consent of Register.com. Register.com reserves the right to modify these terms at any time. By submitting this query, you agree to abide by these terms.

You may be able to buy this domain name through <http://www.afternic.com/offer>

### Organization:

Mosaic Data Solutions  
Russ Effrig  
1880 Oak Street, 2nd Floor  
Evanston, IL 60201-5937  
US  
Phone: 847-864-3900  
Fax...: 847-864-9016  
Email: [info@customoffers.com](mailto:info@customoffers.com)

Registrar Name....: Register.com  
Registrar Whois...: [whois.register.com](http://whois.register.com)  
Registrar Homepage: <http://www.register.com>

Domain Name: CUSTOMOFFERS.COM

Created on.....: Wed, Apr 11, 2001  
Expires on.....: Sun, Apr 11, 2004  
Record last updated on..: Mon, Sep 23, 2002

### Administrative Contact:

Mosaic Data Solutions  
Russ Effrig  
1880 Oak Street, 2nd Floor  
Evanston, IL 60201-5937  
US  
Phone: 847-864-3900  
Fax...: 847-864-9016  
Email: [info@customoffers.com](mailto:info@customoffers.com)



## WHOIS Search Results

The data in Register.com's WHOIS database is provided to you by Register.com for information purposes only, that is, to assist you in obtaining information about or related to a domain name registration record. Register.com makes this information available "as is," and does not guarantee its accuracy. By submitting a WHOIS query, you agree that you will use this data only for lawful purposes and that, under no circumstances will you use this data to: (1) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via direct mail, electronic mail, or by telephone; or (2) enable high volume, automated, electronic processes that apply to Register.com (or its systems). The compilation, repackaging, dissemination or other use of this data is expressly prohibited without the prior written consent of Register.com. Register.com reserves the right to modify these terms at any time. By submitting this query, you agree to abide by these terms.

You may be able to buy this domain name through <http://www.afternic.com/offer>

### Organization:

YourMailSource  
System Administrator  
1555 Sherman, Suite 324  
Evanston, IL 60201  
US  
Phone: 847-864-1982  
Fax...: 847-864-2642  
Email: [support@amazingofferings.com](mailto:support@amazingofferings.com)

Registrar Name....: Register.com  
Registrar Whois...: [whois.register.com](http://whois.register.com)  
Registrar Homepage: <http://www.register.com>

Domain Name: AMAZINGOFFERINGS.COM

Created on.....: Fri, Mar 22, 2002  
Expires on.....: Sat, Mar 22, 2003  
Record last updated on..: Mon, May 06, 2002

### Administrative Contact, Technical Contact, Zone Contact:

YourMailSource  
System Administrator  
1555 Sherman, Suite 324  
Evanston, IL 60201  
US  
Phone: 847-864-1982  
Fax...: 847-864-2642  
Email: [support@amazingofferings.com](mailto:support@amazingofferings.com)



## Results from Corporation Search

<b>Entity Name</b>	YOURMAILSOURCE.COM INC.	<b>File Number</b>	62122099
<b>Entity Type</b>	Corporate Master	<b>Type Corporation</b>	Foreign BCA
<b>Incorporation Date</b>	03/12/2002	<b>State</b>	DELAWARE
<b>Agent Name</b>	C T CORPORATION SYSTEM	<b>Agent Change Date</b>	03/12/2002
<b>Agent Street</b>	208 SOUTH LASALLE STREET	<b>President Name</b>	DAVID GRAF 150 COLUMBUS AVE #20A-B NEW YORK NY 10023
<b>Agent City</b>	CHICAGO	<b>Secretary Name</b>	LAWRENCE P ORGAN 321 SHERIDAN RD WINNETKA 60093
<b>Agent Zip</b>	606041136	<b>Duration Date</b>	Perpetual
<b>Current Paid Year</b>	0000	<b>Current Paid Date</b>	00/00/0000
<b>Assumed Name</b>			

CustomOffers.com management - Microsoft Internet Explorer

File Edit View Favorites Tools Help


Back Forward Stop Home Search Favorites Media Pop-Up Stopper

Address http://www.customoffers.com/management.html Go Y! >>

**CustomOffers.com**

Home Register Now Your Account Free Camera About Us Privacy Policy

**Management Team**

 **Larry Organ**

Larry Organ is an Internet marketing pioneer and innovator. Active in the direct marketing industry since 1986, Larry brings expertise in direct response, data aggregation, and sales management, with a focus on direct-to-consumer marketing.

In 1995, Larry started [fastWEB](#). Under his leadership, fastWEB, now a [TMP Worldwide](#) company, quickly became the leading commercially-oriented student website. Not only a financial success, fastWEB has also been a social success, with over 100,000 members and a strong online community.

Mosaic - Mosaic Management - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Media Pop-Up Stopper

Address http://www.mosaic.com/about/mosaicManagement.jsp Go Y! >>

**MOSAIC**  
REAL SOLUTIONS. REAL RESULTS.

HOME ABOUT MOSAIC CAPABILITIES CAREERS INVESTOR RELATIONS

Mosaic Values  
Board of Directors  
Mosaic Management  
Divisional Management

**Mosaic Management**

**Marc Byron**  
*Vice Chairman and Chief Executive Officer*

**David Graf**  
*President Performance Solutions North America*

David Graf was appointed to the role of President Performance Solutions North America in November 2001. Along with Mosaic's CEO Marc Byron, Mr. Graf co-founded Paradigm Direct, which became part of Mosaic in December 2000. Mr. Graf has over 12 years of leadership expertise, direct marketing, and sales and business experience. He has achieved consistently superior results in his business career in great part due to his business philosophy and actions, which are based on clear, open and honest communications with corporate partners, suppliers, employees, and clients.

Most recently and prior to founding Paradigm Direct, Mr. Graf served under Marc Byron as Senior Vice President of Sales and Marketing for National Market Share, Inc. Mr. Graf was instrumental in growing National Market Share from a small regional company to a national leader in the direct response market.



**EXHIBIT D**

**CustomOffers.com Privacy Policy**



The Privacy Policy of CustomOffers and its sister company Consumerbase (hereafter referred to as "the Company") demonstrates our deep commitment to full disclosure regarding privacy issues. Since we gather certain types of information about our subscribers, we want subscribers to fully understand the terms and conditions surrounding the capture and use of that information. This privacy statement discloses what information we gather and how we use it.

1. [Information the Company Gathers and Tracks](#)
2. [Sharing of Information](#)
3. [Delete / Deactivate Policy](#)
4. [Notification of Changes](#)
5. [Security Policy](#)

If you have any questions or comments regarding this Privacy Policy, please contact the Company at [Privacy@CustomOffers.com](mailto:Privacy@CustomOffers.com).

## **1. Information the Company Gathers and Tracks**

"Subscription" occurs when an end-user registers for the Company's services, either via registration at our website, via opt-in or opt-out co-registration at a marketing partner's website, or via an opt-out permission pass / opt-out mailing. The Company collects personally identifiable information about our subscribers, based on: information gathered at the time of registration, subscriber interaction and response to subsequent electronic mailings and website use, information provided by marketing partners, and information appended from data aggregators. Information collected may include, but is not necessarily limited to: name, email address, postal address, gender, birth date, telephone number, activity, interests, and other demographic information. This information enables us to better tailor our content to subscribers' needs and to help our clients to promote and sell their products and services.

The Company gathers subscriber information using some or all of the following processes:

**Cookies:** The Company minimizes the use of cookies to only those necessary to properly route subscribers, and customize the subscriber's experience. The Company provides links to advertiser and partner websites. These sites may choose to use cookies to better promote their products and services.

**Usage Tracking:** The Company tracks information related to the electronic mailings and web pages viewed by subscribers, as well as the hyperlinks clicked by subscribers, while viewing our emails or visiting our websites.

**Log Files:** Log files are used to track and monitor subscriber usage.

**Subscriber Feedback/Inquiries:** Subscribers have the ability to contact the Company to provide us with their feedback. The Company uses this information to respond to the subscriber and analyze customer service issues.

## **2. Sharing of Information**

All information provided to the Company about a subscriber, as well as any additional information we may lawfully collect regarding a subscriber, may be used to support our services and data sharing with marketing companies, advertising agencies, compilers, and data companies. The Company does not control the practices of our advertisers or third party marketers, who may further disseminate personally identifiable information, including demographic and lifestyle data.

Subscription status, unsubscribe request activity, and personally identifiable information is made publicly available for the purpose of checking subscription status and for investigating subscription issues.

Company emails and websites contain links to external websites. Subscribers will be taken to external websites if they click on these links. The subscriber's information may be passed from the Company's database to the external website, and/or external database, for the convenience of the subscriber (e.g. subscriber information may be used to pre-fill a form at a destination website). The Company is not responsible for the privacy practices or content of any external website owner. We encourage all subscribers to review the privacy policy of any website they visit.

### **3. Delete/Deactivate Policy**

Subscribers may unsubscribe to our electronic mailings at any time by following the instructions contained within our electronic mailings, or by unsubscribing via the Company's website.

Currently, the Company does not offer subscribers a means by which to completely delete personal information from our databases. Instead, subscription status is set to "unsubscribed" to suppress inclusion from future Company electronic mailings.

The Company's unsubscribe process impacts only the future delivery of electronic mailings disseminated by the Company on its own behalf. Former Company subscribers may still receive electronic mailings sent on behalf of third-parties and their personal information may still be shared with third parties for use in offline marketing and data appends, including email appends.

Company subscribers should also note that unsubscribing from Company electronic mailings will not automatically unsubscribe the subscriber's information from any third-party associates and licensees of the data. Since third-party associates and licensee partners maintain separate databases from the Company, subscribers will need to unsubscribe from each source individually, if desired. This allows the end-user the freedom to pick and choose which subscriptions to maintain and which to discontinue.

### **4. Notification of Changes**

The Company's privacy policy and use of personally identifiable information is subject to change at any time without notice. The current version of our Privacy Policy will be posted at [CustomOffers.com](http://CustomOffers.com).

### **5. Security Policy**

The Company has created security guidelines to protect the loss or alteration of company database information.

For questions or comments, please contact the Company via e-mail at [Privacy@CustomOffers.com](mailto:Privacy@CustomOffers.com).

Last updated: June 2002

**After the trial, the third paragraph of section 3, Delete/Deactivate Policy, was changed to read:**

The Company's unsubscribe process impacts only the future delivery of electronic mailings disseminated by the Company on its own behalf. Former Company subscribers may still be shared with third parties for use in offline marketing, data appends, including email appends and email directory lookup services.

**CustomOffers no longer states that:**

Former Company subscribers may still receive electronic mailings sent on behalf of third-parties.

**EXHIBIT E**

**Sworn Statement of Larry Organ, Dated September 11, 2002**



September 11, 2002  
Sworn Statement of Larry Organ  
General Manager of Mosaic Data Solutions Inc., a Delaware Corporation

I, Larry Organ, do solemnly swear this statement is true and accurate to the best of my knowledge and belief.

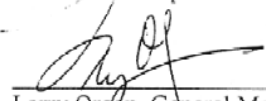
Dan Balsam's email address ([danbalsam@yahoo.com](mailto:danbalsam@yahoo.com)) was legally purchased from Mindset Interactive on December 7, 2001. Attached (see Attachment 1) is a copy of the acquisition/insertion order reflecting same.

On or about December 15, 2001, the email address [danbalsam@yahoo.com](mailto:danbalsam@yahoo.com) was added to Mosaic Data Solutions' (dba CustomOffers) database. That address received emails from Mosaic Data Solutions until Mr. Balsam unsubscribed on April 29, 2002 at which point no further emails were sent.

While Mosaic Data Solutions Inc. is not aware of any state or federal laws prohibiting spam, the most common definition ascribed to spam is email from which the user cannot unsubscribe or email which does not identify the sender. Every email deployed by Mosaic Data Solutions Inc. allows users to unsubscribe, and within the header clearly identifies information about the company. Contrary to Mr. Balsam's claim, therefore, Mosaic Data Solutions Inc. does not qualify as spam. Furthermore, Mosaic Data Solutions Inc. meets the requirements specified under California Business and Professions Code Section 17538.4 9 (see Attachment 2). As well, Mosaic Data Solutions' business practices conform to legislation proposed in Congress (see Attachment 3, Section 5).

On or about June 12, 2002, I had a telephone conversation with Dan Balsam at which time he claimed to be a self-appointed vigilante whose goal was to rid the internet of commercial advertising.

There is no legal basis for this claim. We ask, therefore, that the court reject his request for compensation and award Mosaic Data Solutions Inc. \$2,250.00 for compensation for hotel, airfare and lost production for Jeff Zweben who appears before you today.

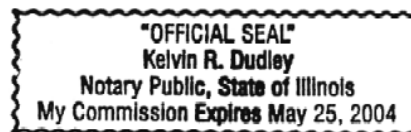
  
Larry Organ, General Manager  
Mosaic Data Solutions Inc.

Subscribed and sworn to before me this

11 day of SEPTEMBER, 2002

Notary Public, Kevin R. Dudley County, Illinois.

My Commission Expires: 5/25/04



Mosaic Data Solutions Inc.

**EXHIBIT F**

**Purchase Order from Mindset Interactive**

CustomOffers LLC  
Acquisition/ Insertion Order  
1880 Oak Avenue, 2<sup>nd</sup> Floor  
Evanston, IL 60201-5937  
847.864.3900

# Acquisition / Insertion Order

CustomOffers .com

CustomOffers Insertion Order No.	75	Date	December 7, 2001																		
External Insertion Order No.		Account Exec	Jeff Zweben																		
<b>Campaign Information</b>																					
Advertiser	Mindset Interactive	Agency																			
Contact	Gomin Beyer	Contact																			
Email Address	gbeyer@mindseti.com	Email Address																			
Phone	949-419-0262	Phone																			
	<table border="1"> <thead> <tr> <th>Start</th> <th>End</th> <th>Category</th> <th>Type</th> <th>IMP's</th> <th>Pricing</th> <th>Units</th> <th>Cost/Unit</th> <th>Total Cost</th> </tr> </thead> <tbody> <tr> <td>12/7/01</td> <td>12/31/01</td> <td>Leads</td> <td>Opt-out email</td> <td>TBD</td> <td>CPA</td> <td>TBD</td> <td>\$0.065</td> <td>TBD</td> </tr> </tbody> </table>	Start	End	Category	Type	IMP's	Pricing	Units	Cost/Unit	Total Cost	12/7/01	12/31/01	Leads	Opt-out email	TBD	CPA	TBD	\$0.065	TBD		
Start	End	Category	Type	IMP's	Pricing	Units	Cost/Unit	Total Cost													
12/7/01	12/31/01	Leads	Opt-out email	TBD	CPA	TBD	\$0.065	TBD													
Notes	<p>Each lead must contain gender, first name, last name, address, city, state, zip email address, and date of birth. <u>U.S. Residents, 18 years or older ONLY</u>. Client will pull a file consisting of 5,000,000 users using an "nth" select from its ninety (90) day hotline. CustomOffers will run the file through its data hygiene process and purge all duplicate, incomplete and/or unusable users from the file. CustomOffers will send an opt-out email to the remaining users in the list on Clients behalf. Lastly, CustomOffers will purge those users choosing to opt-out from the email. The resulting number is the net number for which CustomOffers will pay Client \$.065 per record.</p> <p>Reporting: Real time reporting has been set up at: URL: <a href="http://reports.customoffers.com">http://reports.customoffers.com</a> User Name: mindseti Password: email (User name and password are case sensitive).</p> <p>File: Must be limited to hotlines collected by Mindset Interactive and/or its affiliates and subsidiaries within the last ninety (90) days.</p>																				
<b>Billing Information</b>																					
Initial Terms	Net 30	Billing Contact	Christine Link-Wardawy																		
Additional Terms		Email Address	<a href="mailto:Christine@customoffers.com">Christine@customoffers.com</a>																		
Billable Party	Custom Offers LLC	Phone	847-864-3900 ext. 102																		
Address	1880 Oak Avenue, 2 <sup>nd</sup> Floor																				
City	Evanston																				
State	IL																				
Zip Code	60093																				
Reporting	N/A																				

The parties hereby agree to the terms of this Acquisition / Insertion Order and further agree to the attached Agreement, dated as of **December 7, 2001**, by and between the parties identified above.

Promoter:

CustomOffers LLC

MINDSET INTERACTIVE

By: Gomin Beyer

Name: Gomin Beyer

Title:

Acceptance Date:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Acceptance Date: \_\_\_\_\_

Thank you for your business! Please sign below and fax this form to 847.864.9026.



**EXHIBIT G**

**Verdict for Plaintiff**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
SMALL CLAIMS DIVISION  
400 McALLISTER, ROOM 103  
SAN FRANCISCO, CALIFORNIA 94102  
(415) 551-4000

SMALL CLAIMS  
CASE NO.

796975

**NOTICE TO ALL PLAINTIFFS AND DEFENDANTS:**

Your small claims case has been decided. If you lost the case, and the court ordered you to pay money, your wages, money, and property may be taken without further warning from the court. Read the back of this sheet for important information about your rights.

**AVISO A TODOS LOS DEMANDANTES Y DEMANDADOS:**

Su caso ha sido resuelto por la corte para reclamos judiciales menores. Si la corte ha decidido en su contra y ha ordenado que usted pague dinero, le pueden quitar su salario, su dinero, y otras cosas de su propiedad, sin aviso adicional por parte de esta corte. Lea el reverso de este formulario para obtener información de importancia acerca de sus derechos.

PLAINTIFF/DEMANDANTE

BALSAM, DANIEL L.

DEFENDANT/DEMANDADO

MOSAIC DATA SOLUTIONS

1880 OAK ST. STE.250

EVANSTON

IL 60201

Phone: (847) 864-3900

MOSAIC GROUP INC.

15375 BARRANCA PKWAY.BLG.A-205

IRVINE

CA 92618

Phone: (949) 727-4777

See attached sheet for additional plaintiffs and defendants.

**NOTICE OF ENTRY OF JUDGMENT**

Judgment was entered as below on: **SEPTEMBER 17, 2002**

Defendant(s): **MOSAIC DATA SOLUTIONS**

shall pay Plaintiff(s): **BALSAM, DANIEL L.**

**\$250.00 principal** **\$50.00 costs and** **\$ .00 interest on plaintiffs claim.**

Dismissed as to defendant(s)

**MOSAIC GROUP INC.**

**CUSTOMOFFERS/YOUR MAIL SERVICE**

Other: **CUSTOMOFFERS/YOUR MAIL SERVICE AND MOSAIC INC.**  
**ARE DISMISSED WITH PREJUDICE.**

Enforcement of judgment is automatically postponed for 30 days or, if an appeal is filed, until the appeal is decided.

13. CLERK'S CERTIFICATE OF MAILING -- I certify that I am not a party to this action. This *Notice of Entry of Judgment* was mailed first class, postage prepaid, in a sealed envelope to the parties at the addresses shown above. The mailing and this certification occurred at the place and on the date shown below.

Place of mailing: **SAN FRANCISCO**

, California

Date of mailing:

**SEPTEMBER 20, 2002**

Clerk, by \_\_\_\_\_, Deputy

— The county provides small claims advisor services free of charge. Read the information sheet on the reverse. —