



PO Box 720602 • Oklahoma City, OK • 73172-0602 • 405.949.2999

Thursday, January 25, 2005



Mr. Daniel Bohan  
Omega World Travel, Inc.  
3102 Omega Office Park  
Fairfax, VA 22031-2400

RE: Violations of @WebGuy.net Terms of Service/Unlawful Commercial Email

**CERTIFIED MAIL: 7002 2410 0005 5825 2542**

Mr. Bohan,

I am in receipt of six (6) unsolicited commercial electronic mail messages advertising the web site "cruise.com". All of the emails in question violate both Federal and State spam laws.

I understand that Cruise.com, Inc. is a wholly owned subsidiary of Omega World Travel, Inc. My web site, WebGuy.net, is hosted on two web servers located within the state of Oklahoma and owned by my corporation, MummaGraphics, Inc. The servers in question, www.webguy.net (the web services server) and www3.webguy.net (the mail server) are protected computers as defined at 18 USC 1030(e)(2)(B).

My company is an email service provider as defined by Oklahoma Statutes, Title 15 §§ 776.4(5) and 776.5(5), and as such, is entitled to statutory damages in the amount of \$25,000.00 per day for each and every day unlawful email, as defined by Oklahoma Statutes, Title 15 §§ 776.2(C) and 776.7(C) are transported through email servers under my control and ownership. What this means to you is that I am guaranteed a minimum of one hundred fifty thousand dollars (\$150,000.00) under current state anti-spam laws. You may settle this matter here and now for the amount of .05¢ on the dollar or six thousand, two hundred and fifty dollars (\$6,250.00 USD). You must immediately mail this amount to the address below or wire transfer the settlement directly to WebGuy Internet Solutions banking facilities in Oklahoma City, OK.

The address to which to mail settlement offers is:

WebGuy Internet Solutions  
PO Box 720602  
Oklahoma City, OK 73162-1092

**BE ADVISED:** If you do not settle this matter with me for the token amount of six thousand, two-hundred fifty U.S. dollars (\$6,250.00 USD) no later than February 15, 2005, **I will file a lawsuit against your company** in an amount not less than one hundred fifty thousand U.S. dollars (\$150,000.00 USD) as per my rights under Oklahoma Statutes Title 15 §§ 776.1-776.4 as well as Oklahoma Statutes Title 15 §§ 776.5-776.7. The emails at issue violate each of these acts. These emails further constitute *aggravated violations* of the Federal CAN-SPAM Act of 2003. Such violations can actually result in prison time for the violator(s). You should be aware of this potential reality as your state has recently jailed a brother and sister for doing the same thing you are doing with this unlawful cruise.com email. Do a search for the names "Jeremy and Jessica Jaynes."

To aid you in your understanding of my intent I have enclosed a copy of the petition I have prepared for filing in Oklahoma County District Court. I will wait only until February 16, 2005 before proceeding against your firm utilizing every legal remedy available to me.

The cruise.com junk emails erroneously claim that I somehow "asked for them" by falsely claiming that I am "receiving this e-mail because you have opted-in to our subscriber list." The email further instructs me on how to unsubscribe if I "wished to be removed". Asking someone if they want to unsubscribe from something they never subscribed to in the first place is like asking a naked person to undress. I have never subscribed to any mailings with your company or its "subsidiaries".

The false and misleading statements contained in your junk emails were, no doubt, designed to 'fool me' into thinking that I did, in fact, ask for them. I can assure you that I did not. I have never heard of your web site or related sites until **after** receiving these unlawful commercial electronic mail messages.

If I had, indeed, requested your "cruise.com updates", I would have done so from a personal address such as "cruise.com@markmumma.com", not addresses I have specifically created and set aside for the use of conducting my day to day business activities with MY customers. The flood of unwanted email of this nature into my business email folders is extremely disruptive to my normal day to day workflow and will not be tolerated.

The sending of commercial email that contains such false and misleading statements is unlawful under Oklahoma Statutes Title 15 § 776.1 et seq.

I take the theft of my bandwidth and server resources extremely seriously. Do not make the grave error of failing to take ME seriously. I have already filed lawsuits on two other senders of unlawful commercial email with several others in the works. Complete details are available at <http://www.SUEaSpammer.com>. This letter shall also serve as notice for you, your subsidiaries, their employees, agents and assigns to stop sending emails of any type to email addresses belonging to each and every one of the domains listed at <http://www.OptOutByDomain.com>.

I can only guess that Google will revisit [www.SUEaSpammer.com](http://www.SUEaSpammer.com) within the next seven (7) days and permanently cache your page in it's memory. Your only chance at complete and total confidentiality is to settle this matter prior to Google.com re-indexing this account. It could be any day.

I await your reply.

Respectfully,



Mark W. Mumma  
\*ENCLOSURE

cc: Mr. James L. Menzer, PC  
Menzer Law Firm

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA**

MUMMAGRAPHS, INC., an	)	
Oklahoma Corporation, dba	)	
WEBGUY INTERNET SOLUTIONS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	Case No.
OMEGA WORLD TRAVEL, INC.,	)	
dba CRUISE.COM, its Agents,	)	
Employees and Assigns.	)	
et al	)	
	)	
Defendant.	)	

**P E T I T I O N**

COMES NOW the Plaintiff by and through his attorney, James L. Menzer, and for his cause of action against the Defendant, OMEGA WORLD TRAVEL, INC., its Agents, Employees, and Assigns. et al, (hereinafter referred to as "Omega"), alleges and states:

1. Plaintiff is an "Electronic Mail Service Provider" as defined under Title 15, Oklahoma Statutes, Sec. 776.4, whose facilities are located in the City of Oklahoma City, Oklahoma County, Oklahoma.
2. The Defendant is an active corporation in the state of Virginia.
3. This action is brought under Title 15, Oklahoma Statutes, Section 776.1 et seq, Fraudulent Use of Electronic Mail, wherein Defendant, Omega, sent or caused to be sent the hereinafter listed electronic mail messages that include fraudulent message headers falsely indicating various points of origin and/or misrepresent information identifying the point of origin or the transmission path of the electronic mail messages

and/or include false or misleading information that purposely or negligently injured Plaintiff in violation of Title 15, O.S. Sec. 776.1 - 776.4 on the following dates:

December 29, 2004	January 5, 2005	January 11, 2005
January 18, 2005	January 19, 2005	January 20, 2005
January 27, 2005	January 28, 2005	February 1, 2005
February 2, 2005		

consisting of a total of 10 separate and distinct days.

4. On information and belief, Defendant is engaged in a pattern and practice of:
  - a. Sending unsolicited commercial e-mail messages with the knowledge that the transmission of such messages are a violation of the Acceptable Use Policies of virtually all Internet and electronic mail service providers worldwide;
  - b. Sending unsolicited commercial e-mail messages with the knowledge that they contributed to the overwhelming flood of unwanted, nuisance messages that present a major burden for Internet and electronic mail service providers and individual users;
  - c. Sending unsolicited commercial e-mail messages with the knowledge that if such messages were transmitted from the IP (Internet Protocol) address space assigned to them, then IP address ranges would very quickly be listed on one or more block lists, resulting in their e-mails being blocked from a large proportion of their intended recipients;
  - d. Utilizing fraudulent techniques to disguise the origin of the messages to make their e-mails appear to come from random locations in a deliberate attempt to thwart the efforts of Plaintiff and other electronic mail service providers to mitigate their damages by simply blocking traffic from the senders of such unwanted, nuisance messages;

5. All of the e-mail messages herein listed consumed Plaintiff's finite server and network resources.

6. All of the e-mail messages herein listed contributed to the considerable burden on Plaintiff and Plaintiff's clients of sorting through unwanted messages to find

legitimate e-mail messages without missing or inadvertently discarding desirable communications.

7. All of the e-mail messages herein listed contributed to the considerable burden on Plaintiff in terms of server maintenance due to unwanted and fraudulent e-mails that thwart automated blocking methods.

8. Actual damages exceed One Dollar (\$1.00) based upon the following:

- a. Defendant's e-mails made it more difficult for Plaintiff and his clients to read and respond to legitimate e-mails by contributing to the clutter of unwanted, unsolicited messages in Plaintiff's and Plaintiff's clients' mailboxes.
- b. Defendant's e-mails consume Plaintiff's and Plaintiff's clients' time to look at and open.
- c. Defendant's e-mails contribute in large part to what has become a relentless tide of unwanted and unsolicited e-mail messages that bury the electronic mailboxes of the Plaintiff and Plaintiff's clients, often to the point that e-mail service becomes totally useless.
- d. In an effort to provide some remediation, Plaintiff has been forced to establish e-mail filtering and blocking protocols. Such protocols take time on an ongoing basis to maintain, and consume storage space, additional network traffic, and CPU time.
- e. Defendant's e-mails generate log entries. Logs must be pruned and/or archived more often due to the relentless tide of unwanted and unsolicited e-mail messages.
- f. Defendant's e-mails contaminated once viable email addresses, thereby requiring Plaintiff and/or Plaintiff's clients to discontinue using said email address and to create new email addresses, modify their web sites to reflect the newly created email addresses, reconfigure email programs as well as contacting customers to have them update their email address books. Such necessary changes take time and effort to complete.
- g. Defendant's e-mails contribute to the cost of bandwidth charges assessed to Plaintiff each month by its upstream internet connection provider.

- h. Determining the identity of the Defendant, its agents, employees, assigns and/or end users and customers required a fair amount of detective work which took valuable time away from Plaintiff's day to day business responsibilities.
- i. Removing Plaintiff's multiple email addresses and/or the email addresses of Plaintiff's clients from Defendant's e-mail marketing list(s) required postal correspondence via certified letter with return receipt and/or long distance telephone calls on one or more occasions.

9. In lieu of actual damages for the fraudulent electronic mail messages listed in paragraph 3. Plaintiff is entitled to and elects to claim statutory damages of \$25,000.00 per each day pursuant to Title 15 O.S. Sec. 776.2(C) which totals not less than \$250,000.00.

10. Plaintiff is entitled to and elects to claim attorney fees and costs pursuant to Title 15 O.S. Sec. 776.2(C) and 776.7(C), in amounts to be determined at the conclusion of this action.

11. Plaintiff anticipates that existing and additional fraudulent electronic mail messages received on other dates will be attributable to Defendant upon further investigation, and therefore reserves the right to amend the total damages prior to trial.

WHEREFORE, Plaintiff prays that upon hearing by this Court, the Court find for Plaintiff and against Defendant actual and statutory damages in excess of \$10,000.00, along with court costs and attorney's fees, and such other relief as this Court deems fair and equitable.

Respectfully submitted,

James L. Menzer, PC

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JAMES L. MENZER, OBA # 12406

Attorney for Plaintiff  
PO Box 818  
Blackwell, OK 74631-0818  
580.363.0800

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STATE OF OKLAHOMA            )  
  ) ss.  
COUNTY OF OKLAHOMA        )

MARK W. MUMMA, of lawful age, being first duly sworn upon oath, states that:

He is the Petitioner above named. He has read the within and foregoing Petition, knows the contents thereof, and the matters and things therein stated are true and correct to the best of his knowledge and belief.

  
\_\_\_\_\_  
MARK W. MUMMA

SUBSCRIBED AND SWORN to before me this \_\_\_ day of \_\_\_\_\_, 2005

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Mark Mumma @WebGuy.NET

**From:** Cruise Deals [cruisedeals@cruise.com]  
**Sent:** Wednesday, December 29, 2004 2:29 PM  
**To:** inbox@webguy.net  
**Subject:** Weekly Cruise E-deals



**Lowest Prices Guaranteed!\***



**Carnival Victory**  
 7 Day -- Eastern Caribbean  
 September 18, 2005

From **\$424**  
 per person



**RCCL Radiance of the Seas**  
 7 Day -- Western Caribbean  
 January 23, 2005

From **\$699**  
 per person



**Norwegian Spirit**  
 7 Day -- Alaska  
 September 10, 2005

From **\$704**  
 per person

**For more information visit our [website](#) or  
 call us at 800-531-6250**

*Prices are per person, double occupancy, cruise-only and port charges **are** included. Government taxes and fees additional. Certain restrictions apply, space is limited, capacity controlled and subject to availability. \*Lowest price guaranteed is applicable only at the time the booking is made.*

You are receiving this e-mail because you have opted-in to our subscriber list. If you wish to be removed please click [here](#).

Or write to us at:

**Cruise.com**  
 1700 Eller Drive  
 Port Everglades, FL 33316  
 954-763-6828

Cruise.Com supports the National Academy Foundation's "Partnerships for America's Youth"

Mark Mumma @WebGuy.NET

**From:** Cruise Deals [cruisedeals@cruise.com]  
**Sent:** Tuesday, January 11, 2005 9:21 PM  
**To:** inbox@webguy.net  
**Subject:** Weekly Cruise E-deals



**Lowest Prices Guaranteed!\***



**Royal Caribbean International**

7 Day -- Western Caribbean  
 November 27, 2005

From **\$499**  
 per person



**Princess Cruises**

7 Day -- Mexico  
 December 3, 10, 2005

From **\$564**  
 per person



**Holland America Lines**

7 Day -- Alaska  
 May 15, 2005

From **\$569**  
 per person

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Mark Mumma @WebGuy.NET

**From:** Cruise Deals [cruisedeals@cruise.com]  
**Sent:** Tuesday, January 18, 2005 9:31 PM  
**To:** inbox@webguy.net  
**Subject:** Weekly Cruise E-deals

**CRUISE.COM**  
 The Internet's Largest Cruise Specialist!

**Lowest Prices Guaranteed!\***

Legendary Cruise Sale 

**Legendary Cruise Sale - Save Up To \$3000**  
**Through February 28**



**Celebrity Cruises**

5 Day -- Western Caribbean  
 December 12, 2005

From **\$390**  
 per person



**Norwegian Cruise Line**

9 Day -- Southern Caribbean  
 April 1, 2005

From **\$669**  
 per person



**Holland America Line**

7 Day -- Alaska  
 May 22, 2005

From **\$709**  
 per person

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Or write to us at:

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 1700 Eller Drive  
 Port Everglades, FL 33316

1/19/2005

Mark Mumma @WebGuy.NET

**From:** Cruise Deals [cruisedeals@cruise.com]  
**Sent:** Wednesday, January 19, 2005 2:46 PM  
**To:** inbox@webguy.net  
**Subject:** Weekly Cruise E-deals

**CRUISE.COM**  
 The Internet's Largest Cruise Specialist!

**Lowest Prices Guaranteed!\***

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 May 22, 2005

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 1700 Eller Drive  
 Port Everglades, FL 33316

1/19/2005

Mark Mumma @WebGuy.NET

**From:** Cruise Deals [cruisedeals@cruise.com]  
**Sent:** Thursday, January 20, 2005 6:50 PM  
**To:** inbox@webguy.net  
**Subject:** Weekly Cruise E-deals

**CRUISE.COM**  
 The Internet's Largest Cruise Specialist!

**Lowest Prices Guaranteed!\***

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**Through February 28**



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 December 12, 2005

From **\$390**  
 per person



**Norwegian Cruise Line**

9 Day -- Southern Caribbean  
 April 1, 2005

From **\$679**  
 per person



**Holland America Line**

7 Day -- Alaska  
 May 22, 2005

From **\$709**  
 per person

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Or write to us at:

**Cruise.com**  
 1700 Eller Drive  
 Port Everglades, FL 33316

1/20/2005

**Spam**

**From:** "Cruise Deals" <cruisedeals@cruise.com>  
**To:** <inbox@webguy.net>  
**Sent:** Thursday, January 27, 2005 7:44 PM  
**Subject:** Weekly Cruise E-deals

**CRUISE.COM**  
 The Internet's Largest Cruise Specialist!

**Lowest Prices Guaranteed!\***

Legendary Cruise Sale



**Legendary Cruise Sale - Save Up To \$3000  
 Through February 28**



**Norwegian Cruise Line**  
 7 Day -- Western Caribbean  
 December 10, 2005

From **\$399**  
 per person



**Royal Caribbean  
 International**  
 7 Day -- Mexico  
 November 13, 2005

From  
**\$511**  
 per person



**Holland America Line**  
 7 Day -- Eastern Caribbean  
 November 26, December 03, 2005

From  
**\$564**  
 per person

**For more information visit our [website](#) or  
 call us at 800-531-6250**

*Prices are per person, double occupancy, cruise-only and port charges **are** included. Government taxes and fees additional. Certain restrictions apply, space is limited, capacity controlled and subject to availability. \*Lowest price guaranteed is applicable only at the time the booking is made.*

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 Port Everglades, FL 33316  
 954-763-6828