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2 Presented to the Court by the foreman of the  
3 Grand Jury in open Court, in the presence of  
4 the Grand Jury and FILED in The U.S.  
5 DISTRICT COURT at Seattle, Washington.

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BRUCE REEIN, Clerk  
By [Signature] Deputy

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 UNITED STATES OF AMERICA,

10 Plaintiff,

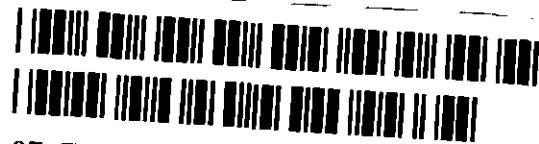
11 v.

12 ROBERT ALAN SOLOWAY, and  
13 NEWPORT INTERNET MARKETING  
14 CORPORATION,

15 Defendants.

CR07 0187 MJP

INDICTMENT



07-CR-00187-INFO

16 The Grand Jury charges that:

17 COUNTS 1 - 10

18 (Mail Fraud)

19 A. Background

20 At all times material herein,

21 1. ROBERT ALAN SOLOWAY was the sole owner/operator of NEWPORT  
22 INTERNET MARKETING CORPORATION, also variously known as "Newport IM  
23 Corporation," "NIM," and "NPR."

24 2. ROBERT ALAN SOLOWAY first incorporated and operated NEWPORT  
25 INTERNET MARKETING CORPORATION (hereinafter "NIM"), in California on or  
26 about November 24, 1998. In or about March, 2000, ROBERT ALAN SOLOWAY  
27 moved to Oregon, where he lived and operated NIM from several locations before  
28 relocating to Seattle, Washington on or about November 28, 2003. Since on or about  
November 28, 2003, ROBERT ALAN SOLOWAY has resided at 1200 Western

1 Avenue, Apartment 17E, Seattle, Washington 98101, and has operated NIM from his  
2 residence at that address.

3           3.       This Indictment charges crimes that have been committed over the  
4 Internet and using computer technology. Because this Indictment contains terms that  
5 may not be familiar to the general public, definitions of those terms are included in  
6 paragraphs 4 through 15, below.

7           4.       **Internet Protocol Address (“IP address”)**: An Internet Protocol (IP)  
8 address is a unique, 32 bit numeric address used to identify computers on the Internet.  
9 An IP address consists of four numbers, each from 0 to 255, separated by periods.  
10 Every computer connected to the Internet (or group of computers using the same  
11 account to access the Internet) must be assigned an IP address so that Internet traffic  
12 sent from and directed to that computer is directed properly from its source and to its  
13 destination. IP addresses are typically assigned by Internet service providers (“ISPs”),  
14 such as AOL, Earthlink, or Comcast. An ISP might assign a different IP address to a  
15 customer each time the customer makes an internet connection (so-called “dynamic IP  
16 addressing”), or it might assign an IP address to a customer permanently or for a fixed  
17 period of time (so-called “static IP addressing”). Even if an IP address is dynamically  
18 assigned, the computer will retain the originally assigned IP address if the computer  
19 never disconnects from the network after the initial IP address assignment or the user  
20 does not manually reset it. Regardless of whether it is dynamically assigned or static,  
21 the IP address used by a computer attached to the Internet must be unique for the  
22 duration of a particular session; that is, from connection to disconnection.

23           ISPs typically log their customers’ connections, including IP addresses. The ISP  
24 can thus identify which of their customers was assigned a specific IP address during a  
25 particular session.

26           5.       **Domain Name**: In the context of the Internet, a domain name is the  
27 logical, text-based equivalent of the numeric IP address. Because it is “logical,” and  
28 text-based, a domain name - for example, “www.testname.com” - is more easily

1 remembered by humans than is an exclusively numeric IP address, such as  
2 "23.45.35.100."

3 Like an IP address, a domain name does consist of a sequence of characters,  
4 separated by periods. Domain names are organized hierarchically and read from right  
5 to left. The right-most component is the "top level domain." This includes the  
6 ".com," ".gov," and ".edu" domains, as well as many others. Top level domains are  
7 owned and managed by the Internet sanctioning organizations. The second part of the  
8 domain name is owned by the registrant who first registered the name with the  
9 sanctioning organizations. Domain name owners can then create sub-domains to  
10 provide access to resources they own and/or control.

11 **6. Domain Name Service ("DNS"):** DNS is the Internet resource for  
12 converting the text-based domain names into IP addresses. DNS server computers  
13 maintain a database for resolving domain host names and IP addresses, allowing users  
14 of computers configured to query the DNS to specify remote computers by the easier-  
15 to-remember domain host names (in words), rather than by the difficult-to-remember  
16 numerical IP addresses.

17 DNS also thus makes it possible to "move" a host on the Internet (which would  
18 entail a change in the underlying IP address), while still preserving the availability of  
19 the resource based on its text-based domain name. Users would still request the  
20 resource by its (text-based) domain name, and DNS would resolve the name to the new  
21 IP address.

22 **7. Server:** A computer that provides a service - such as e-mail or Web data  
23 - to other computers (known as "clients") via a network or the Internet. When a user  
24 accesses e-mail or Internet web pages, or accesses files stored on the network itself,  
25 those files are pulled electronically from the server where they are stored and are sent  
26 to the client's computer via the network or Internet. Notably, server computers can be  
27 physically located in any location; for example, it is not uncommon for a network's  
28

1 server to be located hundreds (or even thousands) of miles away from the client  
2 computers.

3       **8. Proxy Server:** A proxy server is a computer that offers a computer  
4 network service to allow clients to make indirect network connections to other  
5 computers or network services. An open proxy is a computer that will accept client  
6 connections from any IP address and make connections to any Internet resource. A  
7 proxy server can be used to camouflage the originating source IP address of an e-mail  
8 communication, as the IP address of the originating source of the communication will  
9 be replaced in the header by the IP address of the proxy server. Use of multiple proxy  
10 servers adds to the difficulty of tracing a communication back to its true original IP  
11 address source.

12       **9. Internet Service Provider ("ISP"):** A business that provides  
13 connectivity to the Internet. ISPs typically provide the ability to send and receive e-  
14 mail, browse the World Wide Web and download (copy) files from Internet servers.  
15 Internet Service Providers often offer other Internet-related services such as hosting an  
16 Internet site on a web server.

17       **10. Website:** A location on the Internet at which an individual or  
18 organization provides information to others about itself. It may also provide links to  
19 other Internet sites with common interests or goals.

20       **11. E-mail header:** The beginning of an e-mail message, that contains  
21 detailed information (IP address and domain names) of the origin of the e-mail  
22 ("From" designation); the destination of the e-mail ("To" designation); as well as date,  
23 routing, and possibly subject matter information.

24       **12. Forged e-mail header:** A tactic used to hide the source address of an e-  
25 mail by placing false information in the "From:" field of the e-mail header.

26       **13. Bounce back e-mail:** Errors can occur at multiple places in e-mail  
27 delivery. A user may sometimes receive a bounce back message from their own e-mail  
28 server, and sometimes from a recipient's e-mail server. For example, imagine that

1 Jack (jack@example.com) sends a message to Jill (jill@example.org) at a different site.  
2 Once Jack's e-mail server has accepted the message, it must either pass it along to Jill's  
3 e-mail server, or else deposit a bounce message in Jack's mailbox. However, problems  
4 arise if Jill's e-mail server receives a message with a forged From: field, e.g., if  
5 spammer@example.net sends an unsolicited bulk message claiming to be from  
6 jack@example.com. In this case, Jill's mail server would send the bounce message to  
7 Jack even though Jack never sent the original message to Jill. This is called a bounce  
8 back e-mail or backscatter.

9 14. **Spam:** bulk ("multiple"<sup>1</sup>) commercial e-mail messages. "**Spamming**" is  
10 the abuse of electronic messaging systems by sending multiple commercial e-mail  
11 messages.

12 15. "**Opt-in e-mail address**": the e-mail address of an Internet user who has  
13 signaled his/her consent to receive commercial e-mail communications.

14 **B. The Offense**

15 16. Beginning at a date uncertain, but on or before November 28, 2003, and  
16 continuing through on or about May, 2007, within the Western District of Washington  
17 and elsewhere, ROBERT ALAN SOLOWAY and NIM did knowingly and willfully  
18 devise and intend to devise a scheme and artifice to defraud, and for obtaining money  
19 and property by means of material false and fraudulent pretenses, representations, and  
20 promises; and in executing and attempting to execute this scheme and artifice, did  
21 knowingly cause to be sent and delivered matters and things by the United States Postal  
22 Service and private or commercial interstate carriers according to the directions  
23 thereon.

24 **C. Essence of the Scheme and Artifice to Defraud**

25 17. The essence of the scheme and artifice to defraud was that ROBERT  
26 ALAN SOLOWAY and NIM created and published a series of websites on the World

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27 <sup>1</sup>"Multiple" is defined within 18 U.S.C. §1037 as "more than 100 electronic mail messages  
28 during a 24-hour period, more than 1,000 electronic mail messages during a 30-day period, or  
more than 10,000 electronic messages during a 1-year period."

1 Wide Web during the period from November 28, 2003, until May 23, 2007, using a  
2 variety of "company" names, and hosted with dozens of different domain names. The  
3 content of the websites created and published by ROBERT ALAN SOLOWAY and  
4 NIM consisted of commercial advertisements for "broadcast email" services and  
5 products (that is, SOLOWAY was offering, for a price, to either send out a high  
6 volume of e-mail messages on behalf of a customer, or to sell a software product to the  
7 customer that would enable them to send out their own high volume e-mail messages).  
8 In those commercial online advertisements, ROBERT ALAN SOLOWAY and NIM  
9 made numerous material false and fraudulent representations regarding the "broadcast  
10 email" services and products that they offered for sale. They also made material false  
11 and fraudulent representations regarding the availability of technical assistance and the  
12 payment of "full 100%" refunds to dissatisfied customers.

13 ROBERT ALAN SOLOWAY and NIM would send the "broadcast email"  
14 (software) product to paying customers via the United States Postal Service or a private  
15 or commercial interstate carrier. The software product that was sent by ROBERT  
16 ALAN SOLOWAY and NIM did not perform as advertised, however, and often did  
17 not work at all. ROBERT ALAN SOLOWAY and NIM refused, however, to provide  
18 the promised assistance, or to provide refunds to dissatisfied customers, and instead  
19 threatened those who requested a refund with additional financial charges and referral  
20 to a collection agency.

21 The "broadcast email" services advertised and sold by ROBERT ALAN  
22 SOLOWAY and NIM also did not perform as advertised. The "broadcast email" that  
23 ROBERT ALAN SOLOWAY and NIM did transmit on behalf of paying customers  
24 constituted "spam"; i.e., bulk and high volume commercial e-mail messages that  
25 contained false and forged headers and that was relayed using a proxy computer  
26 network. Customers who had purchased the "service," and who complained thereafter  
27 or asked for refunds were threatened by ROBERT ALAN SOLOWAY and NIM with  
28 additional financial charges and referral to a collection agency.

1 **D. The Scheme and Artifice to Defraud**

2 18. It was part of the scheme and artifice to defraud that ROBERT ALAN  
3 SOLOWAY and NIM advertised "broadcast email" services and products for sale on a  
4 series of websites (the "NIM websites") that ROBERT ALAN SOLOWAY created and  
5 published, on the World Wide Web, during the period from November 28, 2003,  
6 through and until May, 2007.

7 19. It was further part of the scheme and artifice to defraud that the "service"  
8 advertised for sale by ROBERT ALAN SOLOWAY and NIM was the transmission  
9 over the Internet of a high volume of e-mail messages containing whatever  
10 advertisement the customer supplied. Different "levels" ("bronze," "silver," "gold,"  
11 and "platinum") of this service were available; with each successively "higher" level  
12 promising a higher number of e-mailed messages, at a successively higher price. For  
13 example, a customer purchasing the "bronze" level of service could have his "email ad  
14 [sent] to 2,000,000 emails over 15 days" for \$195.00; and a customer purchasing the  
15 service at the "platinum" level could have has "email ad [sent] to 20,000,000 emails  
16 over 15 days" for a cost of \$495.00.

17 20. It was further part of the scheme and artifice to defraud that the "product"  
18 that was advertised for sale was a "broadcast email package" containing a handbook  
19 and software that would provide "everything [the customer would] need to send lifetime  
20 broadcast email campaigns to millions of people for free," along with e-mail addresses  
21 ranging from 5,000,000 ("bronze level" for \$195.00), to up to 80,000,000 e-mail  
22 addresses ("platinum level" for \$495.00).

23 21. It was further part of the scheme and artifice to defraud that ROBERT  
24 ALAN SOLOWAY and NIM made numerous representations on the NIM websites that  
25 were designed and intended to encourage readers to purchase the "broadcast email  
26 services" and/or the "broadcast email product" that were there advertised for sale,  
27 including the ability of NIM to reach tens of millions of potential customers with  
28 "broadcast email"; the relatively low cost of "broadcast email" in relation to its

1 effectiveness as a marketing and sales tool; and the significant increases in sales that  
2 could be expected by those who purchased the NIM "broadcast email services" or  
3 "broadcast email product."

4 22. It was further part of the scheme and artifice to defraud that ROBERT  
5 ALAN SOLOWAY and NIM made numerous material false and fraudulent  
6 representations in their online NIM websites regarding the "services" and "product"  
7 that were there offered for sale, including the following:

8 a) that NIM provided and used a data base of 157,800,000 "Permission-  
9 Based Opt-In Emails" that could be "geographically" and "interest" "targeted";

10 b) that the software product "automatically creates 10 super-fast mail  
11 servers on your computer";

12 c) that the software product included the ability to send out "unlimited,  
13 personalized and targeted broadcast email advertisements" to over 500,000,000 people  
14 on the Internet at a rate of up to 1,000,000 daily, automatically and for free;

15 d) that the software product would send e-mail for a "lifetime" for "free";

16 e) that NIM's "Customer and Technical Support Department" offered  
17 assistance "24/7," "with everything you need";

18 f) that if a purchaser of the software product did "not receive at least a  
19 400% increase in sales after using [the] broadcast email package for 90 days," the  
20 customer could "simply return it . . . for a full 100% refund, no questions asked"; and

21 g) that if a purchaser of the "broadcast service" did not "receive at least a  
22 500% increase in sales within 7 days of the start of [the] ad . . . [NIM would] resend  
23 your ad to a new audience of the same amount of emails ordered, 100% free, no  
24 questions asked."

25 In truth and in fact, and as ROBERT ALAN SOLOWAY and NIM then well  
26 knew, the product and services that he sold did not utilize "permission based opt-in  
27 email addresses" and did not have the other capabilities that were falsely advertised;  
28 NIM and ROBERT ALAN SOLOWAY did not provide customers with technical or



1 other support, but instead typically evaded or simply denied customer's requests for  
2 support; and ROBERT ALAN SOLOWAY and NIM regularly evaded and denied  
3 customer's requests for refunds, and often threatened customers who were requesting  
4 them with the prospect of additional charges, referral to collections agencies, and  
5 "ruined credit" if they pursued a refund or charge back from the processing credit card  
6 company.

7 23. It was further part of the scheme and artifice to defraud that ROBERT  
8 ALAN SOLOWAY and NIM hosted the series of NIM websites that advertised their  
9 "broadcast email" product and services on a series of at least 50 successive domain  
10 names, that included broadcastemailcorporation.com, optinemail.com,  
11 theemailbroadcastingcompany.com, broadcastemailinc.com, broadcastemailworld.com,  
12 emailbroadcastingcompany.com, and permissionemailcorp.com.

13 24. It was further part of the scheme and artifice to defraud that ROBERT  
14 ALAN SOLOWAY and NIM used a credit card number that belonged to C.W.,  
15 without C.W.'s permission or consent, to register and pay for the domain name  
16 colidsilver.com, which was one of the domain names used to host the NIM website.

17 25. It was further part of the scheme and artifice to defraud that, beginning no  
18 later than 2006, ROBERT ALAN SOLOWAY and NIM registered the domain names  
19 used for hosting the NIM websites through Chinese ISPs, which would not publically  
20 reveal that ROBERT ALAN SOLOWAY and NIM were the true registrants of these  
21 domain names.

22 26. It was further part of the scheme and artifice to defraud that ROBERT  
23 ALAN SOLOWAY advertised the NIM websites by generating and transmitting tens of  
24 millions of spam e-mail messages over the Internet, that contained an advertisement for  
25 "broadcast email services," and also a hyper-link to the domain name that was then  
26 currently hosting the NIM website.

27 27. It was further part of the scheme and artifice to defraud that the tens of  
28 millions of spam e-mail messages generated and transmitted by ROBERT ALAN

1 SOLOWAY and NIM to advertise and link to the NIM websites contained false and  
2 fraudulent headers. The headers were false and fraudulent in one of three different  
3 ways: 1) the "from" field in the header would be blank, 2) the "from" field in the  
4 header would contain a false and non-existent domain name or e-mail address, or 3) the  
5 "from" field in the header would contain a forged domain name or e-mail address that  
6 belonged to another real person or organization (which address would typically also be  
7 contained in the "to" field).

8 28. Victims whose unique e-mail addresses or domain names had been stolen  
9 by ROBERT ALAN SOLOWAY and NIM and been forged into the "from" header  
10 suffered a number of adverse consequences as a result. These include the following:

11 Because these victims could sometimes be specifically identified based on their  
12 unique e-mail addresses or domain names, they were sometimes mistakenly blamed for  
13 the spamming activity of ROBERT ALAN SOLOWAY and NIM. In some instances,  
14 this resulted in "black-listing" by ISPs, due to the victims' apparent (but not actual)  
15 role in spamming activity. For victims that were legitimate online businesses, this  
16 could mean the loss of significant sales, or even a collapse of their business.

17 In other instances, the servers of the victims whose e-mail addresses or domain  
18 names had been forged into the headers would receive large volumes of worthless  
19 communications that consisted of bounce back e-mails from spam that ROBERT ALAN  
20 SOLOWAY and NIM had transmitted to invalid e-mail addresses. The spam would  
21 consume valuable storage space on their servers, and cost both time and money to  
22 eliminate.

23 The forging technique of using legitimate e-mail addresses and domain names of  
24 other real people and organizations in the "from," as well as the "to" header also  
25 significantly diminished the ability of the victim recipients to stop the spam with "spam  
26 filters." Spam filters are most typically configured to filter in-coming e-mails based on  
27 the presence of certain e-mail addresses or domain names in the header, or the presence  
28 of certain originating IP addresses. A victim could not "filter" based on the use of

1 | their own legitimate e-mail address and/or domain name in the "from" field in the  
2 | header, because that would also block all legitimate in-coming traffic with the same  
3 | address in the "to" field of the header. And because SOLOWAY and NIM used proxy  
4 | computers to relay the spam, it was also difficult for victims to filter the spam based on  
5 | the originating IP address. By combining the use of forged "from" headers and proxy  
6 | relays, ROBERT ALAN SOLOWAY and NIM made it extremely difficult, if not  
7 | impossible, for victims to block the incoming NIM spam. And because ROBERT  
8 | ALAN SOLOWAY and NIM would not honor recipients' requests to be removed from  
9 | their "distribution email" (spamming) address lists, this often meant that victims  
10 | ultimately had to close their established e-mail accounts or cancel their established  
11 | domain names in order to effectively stop the spam that was relentlessly transmitted to  
12 | them by ROBERT ALAN SOLOWAY and NIM.

13 |         29. It was further part of the scheme and artifice to defraud that ROBERT  
14 | ALAN SOLOWAY and NIM used a number of different servers, with different IP  
15 | addresses, to transmit millions of spam e-mail messages to advertise the NIM websites.  
16 | In order to facilitate the transmission of spam from these servers, ROBERT ALAN  
17 | SOLOWAY and NIM installed the "Dark Mailer" software program on them. The  
18 | Dark Mailer program was configured to send e-mail messages with forged headers  
19 | using a pre-designed template, and was also configured to use a list of over 2,000  
20 | proxy computers to relay the spam e-mails to the ultimate recipients.

21 |         30. It was further part of the scheme and artifice to defraud that the proxy  
22 | computers used for the relay of the spammed e-mail advertising messages further  
23 | concealed the IP address of the computer that was the true originating source of the  
24 | spammed e-mail messages.

25 |         31. It was further part of the scheme and artifice to defraud that the servers  
26 | used by ROBERT ALAN SOLOWAY and NIM included servers that were rented from  
27 | hosting providers NoBull and Hopone, both of which companies acted to terminate  
28 | ROBERT ALAN SOLOWAY and NIM's use of the servers for violations of their

1 terms of use agreements because ROBERT ALAN SOLOWAY and NIM used the  
2 servers to distribute spam.

3 32. It was further part of the scheme and artifice to defraud that the  
4 "broadcast email services" sold by ROBERT ALAN SOLOWAY and NIM actually  
5 consisted of spam (i.e., bulk commercial) e-mail messages that included forged  
6 headers, and that were relayed or retransmitted by a network of proxy computers.

7 33. It was further part of the scheme and artifice to defraud that, if they  
8 worked at all, the "broadcast email products" sold by ROBERT ALAN SOLOWAY  
9 and NIM also resulted in the creation and transmission of spam (i.e., bulk commercial  
10 e-mail) that included forged headers, and that were relayed or retransmitted by a  
11 network of proxy computers.

12 34. It was further part of the scheme and artifice to defraud that ROBERT  
13 ALAN SOLOWAY and NIM represented falsely on the NIM websites that "[w]e Offer  
14 Easy Hassle-Free Email Removal From Our [sic] All of Our Emailing Lists Upon  
15 Request Below," whereas in truth and in fact, and as ROBERT ALAN SOLOWAY and  
16 NIM well knew, they routinely failed and refused to remove individuals who made such  
17 a request from their e-mail lists, even when such individuals made repeated requests for  
18 removal from the lists.

19 35. It was further part of the scheme and artifice to defraud that ROBERT  
20 ALAN SOLOWAY and NIM routinely provided a false and fraudulent address of  
21 "1001 4th Ave. - #1259, Seattle, WA 98111" as the "corporate address" that was  
22 published on the NIM websites.

23 **E. Execution of the Scheme and Artifice to Defraud**

24 36. On or about the below-listed dates, within the Western District of  
25 Washington and elsewhere, for the purpose of executing and attempting to execute this  
26 scheme and artifice to defraud, ROBERT ALAN SOLOWAY and NIM knowingly  
27 caused the following items to be placed in an authorized depository for mail matter to  
28 be sent or delivered by a private or commercial interstate carrier, according to the

1 directions thereon, each such mailing constituting a representative example of the use of  
2 the mails in furtherance of the scheme and artifice to defraud, and each mailing  
3 constituting a separate count of this Indictment.

<u>Count</u>	<u>Approx. Date of Mailing</u>	<u>Item Mailed and Nature of Mailing</u>	<u>Method</u>
4			
5			
6	1	7/16/04 NIM software product (CD) sent to E.O. in Floresville, TX	Fed Ex
7			
8	2	6/02/05 NIM software product (CD) sent to R.B. in Los Angeles, CA	Fed Ex
9			
10	3	8/11/05 NIM software product (CD) sent to C.D. in Upper Marlboro, MD	Fed Ex
11			
12	4	8/22/05 NIM software product (CD) sent to D.G. in Lakeville, MN	Fed Ex
13			
14	5	9/01/05 NIM software product (CD) sent to A.H. in Cedarburg, WI	Fed Ex
15			
16	6	9/15/05 NIM software product (CD) sent to J J-G. in Slingerlands, NY	Fed Ex
17			
18	7	1/26/06 NIM software product (CD) sent to B.A. in Bremerton, WA	Fed Ex
19			
20	8	6/02/06 NIM software product (CD) sent to M.F. in Cerritos, CA	Fed Ex
21			
22	9	1/18/07 NIM software product (CD) sent to J.H. in Dallas, TX	Fed Ex
23			
24	10	3/30/07 NIM software product (CD) sent to K.A. in Davenport, IA	Fed Ex

21 All in violation of Title 18, United States Code, Section 1341.

22  
23 **COUNTS 11 - 15**

24 **(Wire Fraud)**

25 1. The Grand Jury realleges and incorporates as if fully set forth herein  
26 Paragraphs 1 through 35 of Count 1 of this Indictment as constituting the scheme to  
27 defraud.

1           2.     Beginning at a date uncertain, but on or before November 28, 2003, and  
2 continuing through on or about May, 2007, within the Western District of Washington  
3 and elsewhere, ROBERT ALAN SOLOWAY and NIM did knowingly and willfully  
4 devise and execute and attempt to execute a scheme and artifice to defraud, and to  
5 obtain money and property by means of material false and fraudulent pretenses,  
6 representations, and promises as more particularly set forth in Count 1 of this  
7 Indictment; and in executing or attempting to execute this scheme and artifice, did  
8 knowingly cause to be transmitted in interstate commerce by means of wire  
9 communication, certain signs, signals and sounds.

10           3.     On or about the below-listed dates, within the Western District of  
11 Washington and elsewhere, for the purpose of executing and attempting to execute this  
12 scheme and artifice to defraud, ROBERT ALAN SOLOWAY and NIM did knowingly  
13 cause to be transmitted in interstate commerce by means of wire communication,  
14 certain signs, signals, and sounds, that is, e-mail or other wire communications relating  
15 to the advertisement and sale of "broadcast email" services and products, from Seattle,  
16 to the recipient identified below, each of which constituted a separate count of this  
17 Indictment:

<u>Count</u>	<u>Approx. Date</u>	<u>Nature of Interstate Wire Communication</u>	<u>Recipient of Wire Communication</u>
11	5/17/04	Spammed e-mail NIM advertisement and/or website containing false and fraudulent misrepresentations re: product sold, tech. assistance, and guarantee	M.H., Howard, OH
12	10/10/04	Spammed e-mail NIM advertisement and/or website containing false and fraudulent misrepresentations re: product sold, tech. assistance, and guarantee	R.S., Mercer, PA
13	11/02/05	Spammed e-mail NIM advertisement and/or website containing false and fraudulent misrepresentations re: product sold, tech. assistance, and guarantee	D.G., Valencia, CA
14	11/10/05	Spammed e-mail NIM advertisement and/or website containing false and fraudulent misrepresentations re: product sold, tech. assistance, and guarantee	S.A., Kendall Park, N.J.

1 15 12/18/06 Spammed e-mail NIM advertisement and/or website  
2 containing false and fraudulent misrepresentations  
3 re: product sold, tech. assistance, and guarantee

H.O.  
Bradention, FL

4 All in violation of Title 18, United States Code, Section 1343.

5 **COUNT 16**

6 **(Fraud in Connection with Electronic Mail)**

7 1. The Grand Jury realleges and incorporates as if fully set forth herein  
8 Paragraphs 1 through 35 of Count 1 of this Indictment.

9 2. From on or about January 1, 2004, to on or about May, 2007, within the  
10 Western District of Washington and elsewhere, ROBERT ALAN SOLOWAY and NIM  
11 knowingly used a protected computer, in or affecting interstate and foreign commerce,  
12 to relay or retransmit multiple commercial electronic mail messages with the intent to  
13 deceive or mislead recipients, or any Internet access service, as to the origin of such  
14 messages, and did so in furtherance of a felony under the laws of the United States, to  
15 wit, Mail Fraud and Wire Fraud, in violation of Title 18, United States Code, Sections  
16 1341 and 1343.

17 All in violation of Title 18, United States Code, Sections 1037(a)(2) and  
18 (b)(1)(A).

19 **COUNT 17**

20 **(Fraud in Connection with Electronic Mail)**

21 1. The Grand Jury realleges and incorporates as if fully set forth herein  
22 Paragraphs 1 through 35 of Count 1 of this Indictment.

23 2. From on or about January 1, 2004, to on or about May, 2007, within the  
24 Western District of Washington and elsewhere, ROBERT ALAN SOLOWAY and  
25 NIM, in or affecting interstate and foreign commerce, knowingly and materially  
26 falsified header information in multiple commercial electronic mail messages, and  
27 intentionally initiated the transmission of such messages, all in furtherance of a felony  
28

1 under the laws of the United States, to wit, Mail Fraud and Wire Fraud, in violation of  
2 Title 18, United States Code, Sections 1341 and 1343.

3 All in violation of Title 18, United States Code, Sections 1037(a)(3) and  
4 (b)(1)(A).

5 **COUNT 18**

6 **(Aggravated Identity Theft)**

7 1. The Grand Jury realleges and incorporates as if fully set forth herein  
8 Paragraphs 1 through 35 of Count 1 of this Indictment.

9 2. On or about September 19, 2006 , within the Western District of  
10 Washington and elsewhere, ROBERT ALAN SOLOWAY and NIM knowingly  
11 transferred, possessed and used, without lawful authority, a means of identification of  
12 another person, to wit, the name and credit card number of C.W., which ROBERT  
13 ALAN SOLOWAY and NIM used to register and pay for the domain name,  
14 "colidsilver.com", which domain was used to host the NIM website, and did so during  
15 and in relation to a felony listed in Title 18, United States Code, Section 1028A(c), to  
16 wit, Wire Fraud, in violation of Title 18, United States Code, Section 1343, and Fraud  
17 in Connection with Electronic Mail, in violation of Title 18, United States Code,  
18 Sections 1037(a)(3) and (b)(1)(A).

19 All in violation of Title 18, United States Code, Section 1028A(a)(1).

20  
21 **COUNT 19**

22 **(Aggravated Identity Theft)**

23 1. The Grand Jury realleges and incorporates as if fully set forth herein  
24 Paragraphs 1 through 35 of Count 1 of this Indictment.

25 2. On or about April 1, 2006, within the Western District of Washington and  
26 elsewhere, ROBERT ALAN SOLOWAY and NIM knowingly transferred, possessed  
27 and used, without lawful authority, a means of identification of another person, to wit,  
28 the domain name, "\*\*\*\*\*ilot.net", registered to and owned by A.P., of St.



1 Petersberg, FL, which ROBERT ALAN SOLOWAY and NIM used in a forged e-mail  
2 header that was contained in commercial electronic mail messages transmitted by  
3 ROBERT ALAN SOLOWAY and NIM during and in relation to a felony listed in Title  
4 18, United States Code, Section 1028A(c), to wit, Wire Fraud, in violation of Title 18,  
5 United States Code, Section 1343, and Fraud in Connection with Electronic Mail, in  
6 violation of Title 18, United States Code, Sections 1037(a)(3) and (b)(1)(A).

7 All in violation of Title 18, United States Code, Section 1028A(a)(1).

8  
9 **COUNT 20**

10 **(Aggravated Identity Theft)**

11 1. The Grand Jury realleges and incorporates as if fully set forth herein  
12 Paragraphs 1 through 35 of Count 1 of this Indictment.

13 2. On or about February 1, 2006, within the Western District of Washington  
14 and elsewhere, ROBERT ALAN SOLOWAY and NIM knowingly transferred,  
15 possessed and used, without lawful authority, a means of identification of another  
16 person, to wit, the domain name, "\*\*\*\*\*esuk.com", registered to and  
17 owned by L.M., of the United Kingdom, which ROBERT ALAN SOLOWAY and  
18 NIM used in a forged e-mail header that was contained in commercial electronic mail  
19 messages transmitted by ROBERT ALAN SOLOWAY and NIM during and in relation  
20 to a felony listed in Title 18, United States Code, Section 1028A(c), to wit, Wire  
21 Fraud, in violation of Title 18, United States Code, Section 1343, and Fraud in  
22 Connection with Electronic Mail, in violation of Title 18, United States Code, Sections  
23 1037(a)(3) and (b)(1)(A).

24 All in violation of Title 18, United States Code, Section 1028A(a)(1).

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1 **COUNT 21**

2 **(Aggravated Identity Theft)**

3 1. The Grand Jury realleges and incorporates as if fully set forth herein  
4 Paragraphs 1 through 35 of Count 1 of this Indictment.

5 2. On or about October 1, 2006, within the Western District of Washington  
6 and elsewhere, ROBERT ALAN SOLOWAY and NIM knowingly transferred,  
7 possessed and used, without lawful authority, a means of identification of another  
8 person, to wit, the e-mail address, "sales@dm\*\*\*\*.com", registered to and owned by  
9 D.M., of Valencia, PA, which ROBERT ALAN SOLOWAY and NIM used in a  
10 forged e-mail header that was contained in commercial electronic mail messages  
11 transmitted by ROBERT ALAN SOLOWAY and NIM during and in relation to a  
12 felony listed in Title 18, United States Code, Section 1028A(c), to wit, Wire Fraud, in  
13 violation of Title 18, United States Code, Section 1343, and Fraud in Connection with  
14 Electronic Mail, in violation of Title 18, United States Code, Sections 1037(a)(3) and  
15 (b)(1)(A).

16 All in violation of Title 18, United States Code, Section 1028A(a)(1).

17  
18 **COUNT 22**

19 **(Aggravated Identity Theft)**

20 1. The Grand Jury realleges and incorporates as if fully set forth herein  
21 Paragraphs 1 through 35 of Count 1 of this Indictment.

22 2. On or about February 1, 2007, within the Western District of Washington  
23 and elsewhere, ROBERT ALAN SOLOWAY and NIM knowingly transferred,  
24 possessed and used, without lawful authority, a means of identification of another  
25 person, to wit, the e-mail address, "k.t\*\*\*\*\*@sdscsocialservice.org," which is the  
26 individually identifiable e-mail address of K.T. at her workplace in Santa Barbara, CA,  
27 which ROBERT ALAN SOLOWAY and NIM used in a forged e-mail header that was  
28 contained in commercial electronic mail messages transmitted by ROBERT ALAN

1 SOLOWAY and NIM during and in relation to a felony listed in Title 18, United States  
2 Code, Section 1028A(c), to wit, Wire Fraud, in violation of Title 18, United States  
3 Code, Section 1343, and Fraud in Connection with Electronic Mail, in violation of  
4 Title 18, United States Code, Sections 1037(a)(3) and (b)(1)(A).

5 All in violation of Title 18, United States Code, Section 1028A(a)(1).

6 **COUNTS 23 - 35**

7 **(Money Laundering)**

8  
9 1. The Grand Jury realleges and incorporates as if fully set forth herein the  
10 allegations set forth in Paragraphs 1 through 35 of Count 1.

11 2. On or about the dates set forth below, within the Western District of  
12 Washington, ROBERT ALAN SOLOWAY and NIM did knowingly conduct or attempt  
13 to conduct the following financial transactions, affecting interstate and foreign  
14 commerce, which transactions involved the proceeds of specified unlawful activities,  
15 namely, mail fraud, a violation of Title 18, United States Code, Section 1341, and wire  
16 fraud, a violation of Title 18, United States Code, Section 1343, with the intent to  
17 promote the carrying on of the specified unlawful activities, and while conducting and  
18 attempting to conduct such financial transactions, knowing that the property involved in  
19 the financial transactions set forth below represented the proceeds of some form of

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1 unlawful activity:  
2

Count	Approx. Date of Transaction	Description of Transaction	Amount
23	08/29/2004	American Express '1005 payment to Direct Debit Collections for collections services	75.80
24	12/14/2005	Visa '5127 payment to Cologuys for server hosting services	150.00
25	12/17/2005	Visa '5127 payment to Cologuys for server hosting services	150.00
26	01/22/2006	Visa '5127 payment to Millennium Digital Media for Internet Service Provide services	198.25
27	02/22/2006	Visa '5127 payment to Millennium Digital Media for Internet Service Provider services	198.25
28	6/2/2005	American Express '1005 payment to FedEx for shipping services to R.B. in Los Angeles, CA	15.30
29	08/11/2005	American Express '1005 payment to FedEx for shipping services to C.D. in upper Marlboro, MD	16.40
30	05/08/2006	MasterCard '2314 payment to Harbor Steps through PayRent.com for rent	1,814.95
31	06/06/2006	MasterCard '2314 payment to Harbor Steps through PayRent.com for rent	1,864.95
32	01/26/2006	American Express '1005 payment to FedEx for shipping services to Names by Lourdes, Bremerton, WA 98311	12.45
33	10/29/2006	Visa '5127 payment to NoBull Server for server hosting services	345.00
34	12/01/2006	Visa '5127 payment to NoBull Server for server hosting services	345.00
35	01/09/2007	American Express '1005 payment to AIT for server hosting services	149.88

25  
26 All in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(i).  
27  
28

1 **FORFEITURE ALLEGATIONS**

2 1. The Grand Jury realleges and incorporates as if fully set forth herein  
3 Paragraphs 1 through 35 of Count 1, Counts 2 - 17, and Counts 23 - 35.

4 2. Upon conviction of one or more of the offenses charged in Counts 1  
5 through 17 of this Indictment, ROBERT ALAN SOLOWAY and NIM shall forfeit to  
6 the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and  
7 Title 28, United States Code, Section 2461(c) any property, real or personal,  
8 constituting or derived from proceeds traceable to said violations, including but not  
9 limited to the following:

10 a) Money Judgment

11 A sum of money equal to \$772,998.54 United States currency,  
12 representing the amount of proceeds obtained as a result of the offenses charged in the  
13 Indictment for which the defendants are jointly and severally liable.

14 b) Contents of Bank Accounts

15 Currency or other monetary instruments credited to or contained in  
16 the following accounts:

17 1) West America account; owner: Newport Internet Marketing,  
18 account number \*\*\*\*3285;

19 2) Wells Fargo account; owner: Robert A. Soloway, account  
20 number: \*\*\*\*\*3243;

21 3) Epassport.com account; owner: Robert A. Soloway, account  
22 number: \*\*\*3939; and

23 4) Epassport.com account; owner: Robert A. Soloway, account  
24 number: \*\*\*6723;

25 3. If any of the above described forfeitable property, as a result of any act or  
26 omission of the defendants:

27 a) cannot be located upon the exercise of due diligence;

28 b) has been transferred or sold to, or deposited with, a third party;

1 c) has been placed beyond the jurisdiction of the court;  
2 d) has been substantially diminished in value; or  
3 e) has been commingled with other property which cannot be divided  
4 without difficulty;

5 it is the intent of the United States, pursuant to Title 21, United States  
6 Code, Section 853(p) as incorporated by Title 18, United States Code, Section 982(b),  
7 to seek forfeiture of any other property of said defendants up to the value of the  
8 forfeitable property described above or to seek the return of the property to the  
9 jurisdiction of the Court so that the property may be seized and forfeited.

10 All pursuant to the provisions of Title 18, United States Code, Section  
11 981(a)(1)(C), Title 28, United States Code, Section 2461(c), and Title 21, United States  
12 Code, Section 853.

13 4. Pursuant to Title 18, United States Code, Section 982(a)(1), upon  
14 conviction of one or more of the money laundering offenses set forth in Counts 23 - 35  
15 of this Indictment, ROBERT ALAN SOLOWAY and NIM shall forfeit to the United  
16 States any and all property, real or personal, involved in each offense in violation of  
17 Title 18, United States Code, Section 1956 for which the defendants are convicted, and  
18 all property traceable to such property, including all money or other property that was  
19 the subject of each transaction, transportation, transmission or transfer in violation of  
20 Section 1956; all commissions, fees and other property constituting proceeds obtained  
21 directly as a result of these violations; and all property used in any manner or part to  
22 commit or to facilitate the commission of those violations, including, but not limited to,  
23 the contents of:

24 1) West America account; owner: Newport Internet Marketing,  
25 account number \*\*\*\*3285;

26 2) Wells Fargo account; owner: Robert A. Soloway, account  
27 number: \*\*\*\*\*3243;

28 3) Epassporte.com account; owner: Robert A. Soloway, account

1 | number: \*\*\*3939; and

2 | 4) Epassporte.com account; owner: Robert A. Soloway; account  
3 | number: \*\*\*6723.

4 | If any of the above-described forfeitable property, as a result of any act or  
5 | omission of the defendants:

- 6 | a) cannot be located upon the exercise of due diligence;
- 7 | b) has been transferred or sold to, or deposited with, a third party;
- 8 | c) has been placed beyond the jurisdiction of the court;
- 9 | d) has been substantially diminished in value; or
- 10 | e) has been commingled with other property which cannot be divided  
11 | without difficulty;

12 | it is the intent of the United States, pursuant to Title 21, United States  
13 | Code, Section 853(p) as incorporated by Title 18, United States Code, Section 982(b),

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1 to seek forfeiture of any other property of the defendants up to the value of the  
2 forfeitable property described above.

3 All pursuant to the provisions of Title 18, United States Code, Section 982(a)(1),  
4 and Title 21, United States Code, Section 853.

6 A TRUE BILL

7 DATED: 5/23/2007

8 Signature of Foreperson redacted  
9 pursuant to the policy of the Judicial  
10 Conference

11 FOREPERSON

11 *Carl Blackstone*

12 JEFFREY C. SULLIVAN  
13 United States Attorney

14 *Carl Blackstone*

15 CARL BLACKSTONE  
16 Assistant United States Attorney

17 *[Signature]*  
18 RICHARD E. COHEN  
19 Assistant United States Attorney

20 *[Signature]*  
21 KATHRYN A. WARMA  
22 Assistant United States Attorney