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Southern District of New York

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BROOKLYN MAN SENTENCED TO 30 MONTHS IN PRISON IN MASSIVE AOL SPAM SCHEME

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, announced that ADAM VITALE was sentenced today to 30 months' imprisonment for his role in a conspiracy to send unsolicited commercial e-mails (also known as "spam" or "junk" e-mails) over the Internet to approximately 1.2 million subscribers of America Online, Inc. ("AOL"), and to hide the source of those e-mails. VITALE, 28, of Brooklyn, New York, was sentenced by United States District Judge DENNY CHIN of Manhattan federal court, before whom VITALE had pleaded guilty in June 2007. According to the Complaint, the Indictment, and statements made during VITALE'S sentencing:

Between April and August 2005, VITALE and TODD MOELLER communicated via online instant messaging with a confidential informant ("CI"). During these instant messaging chats, VITALE and MOELLER boasted of their ability to send large numbers of spam e-mails in a manner that would make it nearly impossible for the recipients to trace the spam e-mails to VITALE and MOELLER. VITALE and MOELLER boasted that they had made tens of thousands of dollars in profits through illegal spamming.

In or about August 2005, MOELLER agreed to transmit spam e-mails that advertised a commercial product that the CI purportedly wanted to sell, in exchange for a 50% share of the profits. Between August 17 and August 23, 2005, VITALE and MOELLER proceeded to transmit spam e-mails on behalf of the CI to approximately 1.2 million AOL subscribers. To hide the origin of the spam, prevent the recipients from tracing and stopping it, and allow them to continue their illegal activity, VITALE and MOELLER relayed the spam e-mail over third-party computers and altered the spam e-mails' header information.

VITALE pleaded guilty on June 11, 2007 to a three-count Indictment charging: (1) conspiracy to commit illegal spamming, (2) illegal spamming by using third-party computers to relay or retransmit spam e-mails with the intent to deceive as to the source of the spam e-mails, and (3) illegal spamming by altering the header information in spam e-mails with the intent to disguise the spam e-mails' true origins.

In addition to the term of imprisonment, Judge CHIN ordered VITALE to serve 3 years' supervised release and to forfeit $183,304 as proceeds of his criminal activity.

On November 2, 2007, Judge CHIN sentenced VITALE's co-defendant, TODD MOELLER, principally to 27 months' imprisonment for his participation in the spam conspiracy. MOELLER pleaded guilty on June 19, 2007, to the same three illegal spamming counts as VITALE.

Until VITALE was arrested in this case, he was listed on the Register of Known Spam Operations (the "ROKSO List") maintained by Spamhaus.org, an anti-spamming website. According to Spamhaus.org, the ROKSO List is a register of individuals or operations that have been thrown off of at least three internet service providers for spamming. According to Spamhaus.org, individuals or operations on the ROKSO List are professional spammers and are believed to be responsible for 80% of the spam on the Internet.

Mr. GARCIA praised the investigative efforts of the United States Secret Service, and thanked AOL for its assistance and cooperation in this investigation.

The case is being prosecuted by the Computer Hacking/Intellectual Property ("CHIPs") group of the Office's Major Crimes Unit. Assistant United States Attorney THOMAS G. A. BROWN is in charge of the prosecution.

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