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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

_____		)	
FEDERAL TRADE COMMISSION,	)		
	)		
Plaintiff,	)		
	)		
v.	)	Civil Action No. 08 CV 2783	
	)		
DATA BUSINESS SOLUTIONS INC., also d/b/a	)	Judge Robert M. Dow Jr.	
INTERNET LISTING SERVICE CORP.,	)		
ILS CORP., ILSCORP.NET, DOMAIN LISTING	)	Magistrate Judge Morton Denlow	
SERVICE CORP., DLS CORP., and	)		
DLSCORP.NET;	)		
	)		
1646153 ONTARIO INC., also d/b/a	)		
INTERNET LISTING SERVICE CORP.,	)		
ILS CORP., ILSCORP.NET, DOMAIN LISTING	)		
SERVICE CORP., DLS CORP., and	)		
DLSCORP.NET;	)		
	)		
ARI BALABANIAN;	)		
	)		
ISAAC BENLOLO;	)		
	)		
KIRK MULVENEY;	)		
	)		
STEVEN E. DALE; and	)		
	)		
PEARL KESLASSY,	)		
	)		
Defendants.	)		
_____	)		

**DEFAULT JUDGMENT AND ORDER FOR  
PERMANENT INJUNCTION AS TO DEFENDANT STEVE E. DALE**

On May 14, 2008, Plaintiff Federal Trade Commission (“Commission” or “FTC”),  
pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b),

filed a Complaint For Injunctive And Other Equitable Relief against Defendants Data Business Solutions Inc., Ari Balabanian, Isaac Benlolo, and Kirk Mulveney. The FTC filed an Amended Complaint in this matter on August 11, 2008, adding three additional Defendants: 1646153 Ontario Inc., Pearl Keslassy, and Steven E. Dale (the "Amended Complaint"). Defendant Steven E. Dale ("Dale") was properly served with the Amended Complaint and a copy of the summons.

On May 7, 2009, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, the Court entered default against Defendant Dale. The FTC now has moved for entry of a default judgment on all counts of the Amended Complaint against Defendant Dale pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure. The FTC's Motion for Entry of Default Judgment Against Defendant Steven E. Dale is hereby granted, and **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** as follows:

**FINDINGS**

1. This Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. § 1331, and 15 U.S.C. § 53(b).
2. This Court has jurisdiction over Defendant Dale.
3. Defendant Dale has engaged in activities that are "in or affecting commerce" as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. This action was instituted by the FTC under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b). The Commission seeks permanent injunctive relief and monetary and other equitable relief for deceptive acts or practices by Defendant Dale in connection with the sale of "website address" listings, domain name registration services, and "search optimization" services. Pursuant to Section 13(b), 15 U.S.C. § 53(b), the FTC has the

authority to seek the relief it has requested.

5. The Amended Complaint states a claim upon which relief may be granted against Defendant Dale under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).

6. Defendant Dale was properly served with the Amended Complaint and Summons as required by Rule 4(e) and 4(h) of the Federal Rules of Civil Procedure. Defendant Dale failed to file any response, answer, or pleading within twenty days of service as required by Rule 12(a) of the Federal Rules of Civil Procedure

7. On September 30, 2008, the Court granted a Preliminary Injunction Order with Asset Freeze and Other Equitable Relief Against Defendant Steven E. Dale (“Preliminary Injunction”).

8. On May 7, 2009, the Court granted the FTC’s motion for default against Defendant Dale. The FTC is therefore entitled to a default judgment pursuant to Rule 55(b) of the Federal Rules of Civil Procedure against Defendant Dale.

9. The Court now finds that, in connection with the offering for sale, or sale, of annual “website address” listings, domain name registration services, and “search optimization” services, Defendant Dale has violated Section 5(a) of the FTC Act, 15 U.S.C. § 45, by representing, expressly or by implication, that:

- a. consumers have a preexisting business relationship with Defendants;
- b. consumers owe money to Defendants for the continued registration of the consumers’ current domain names;
- c. the Defendants will provide continued registration services for consumers’

current domain names; and

- d. the Defendants will provide “search optimization” services that will substantially increase traffic, or direct mass traffic, to consumers’ Internet Web sites.

10. The Court further finds that Defendant Dale is likely to continue to engage in the activities alleged in the Amended Complaint unless he is permanently enjoined from such acts and practices.

11. It is proper in this case to enter equitable monetary relief against Defendant Dale for consumer injury caused by his violations of the FTC Act for the deceptive sale of the products and services discussed above. *See FTC v. Febre*, 128 F.3d 530, 534 (7<sup>th</sup> Cir. 1997) (court may “order repayment of money for consumer redress as restitution” and may order disgorgement of ill-gotten gains to “prevent[] the defendant from being unjustly enriched by the fraud.”). The usual method of calculating restitution is determining the “full amount lost by consumers.” *Id.* at 536. The Court finds that the total amount of consumer injury caused by the Defendants for the sale of their annual “website address” listings, domain name registration services, and “search optimization” services is \$4,261,876, and that Plaintiff is entitled to judgment against Defendant Dale in the amount of \$4,251,867.

12. Entry of this Order is in the public interest.

#### **DEFINITIONS**

1. “Asset” or “assets” means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, “goods,” “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks,” or “notes,” (as these terms are defined in

the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located.

2. **“Assisting others”** includes but is not limited to: (a) providing for or arranging for the provision of mail or telephone lists that contain, incorporate, or utilize consumers’ account numbers; (b) preparing or providing, or causing to be prepared or provided, telephone sales scripts or other materials for use in connection with the promotion of products or services to consumers; (c) providing or arranging for the provision of telemarketing services; (d) performing or providing marketing services of any kind; (e) developing, providing, or arranging for the provision of names of potential customers; and (f) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints, obtaining or receiving identifying and financial information from consumers, and communicating with consumers on behalf of the seller or telemarketer.

3. **“Consumer”** means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

4. **“Customer”** means any person who has paid, or may be required to pay, for goods or services offered for sale or sold by Defendants.

5. **“Document”** or **“record”** is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, Internet sites, Web pages, Web sites, electronic correspondence, photographs, audio and video recordings, computer records, and other data compilations from which

information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

6. **“Domain name”** means a globally unique, and easy to remember, name used to identify and locate a specific Web site address using standard Internet protocols. In order to maintain a Web site that is accessible to Internet users around the world, a domain name must be registered with a “domain name registrar” that is accredited by The Internet Corporation for Assigned Names and Numbers (“ICANN”).

7. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

8. **“Person”** or **“persons”** means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

9. **“Plaintiff”** means the Federal Trade Commission (“FTC” or “Commission”).

10. **“Search optimization”** or **“search engine optimization”** means a process or method for increasing the amount of traffic to a Web site by improving or optimizing the Web site in a way that improves the Web site’s ranking or position when consumers conduct Internet searches using search engines.

11. **“Individual Defendants”** means Isaac Benlolo, Pearl Keslassy, Ari Balabanian, Kirk Mulveney, and Steven E. Dale, or any of them.

12. **“Corporate Defendants”** means 1646153 Ontario Inc. and Data Business Solutions Inc., and their successors and assigns, as well as any subsidiaries and any fictitious

business entities or business names created or used by those entities, or any of them.

13. **“Defendants”** means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

## **ORDER**

### **I.**

#### **PROHIBITED BUSINESS ACTIVITIES**

**IT IS HEREBY ORDERED** that, in connection with the advertising, promoting, offering for sale, or sale of any good or service, including, but not limited to, any “website address” listings, domain name registration services, or “search optimization” services, Defendant Dale, his officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any person, business, entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, are hereby permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including but not limited to:

- A. That consumers have a preexisting business relationship with Defendants;
- B. That consumers owe money to Defendants for the continued registration of the consumers’ current domain names;
- C. That Defendants will provide continued domain name registration services for

consumers' current domain names;

D. That Defendants will provide "search optimization" services that will substantially increase traffic, or direct mass traffic, to consumers' Internet Web sites;

E. That Defendants will provide any product or service in connection with consumers' current domain names or Internet Web sites;

F. That consumers owe Defendants money for any product or service;

G. The total cost to purchase, receive, or use the goods or services;

H. Any material restrictions, limitations, or conditions to purchase, receive, or use the goods or services;

I. Any material aspect of the nature or terms of a refund, cancellation, exchange, or repurchase policy for the goods or services; and

J. Any material aspect of the performance, efficacy, nature, or central characteristics of the goods or services.

## II.

### EQUITABLE MONETARY JUDGMENT

**IT IS FURTHER ORDERED** that:

A. Judgment for equitable monetary relief is hereby entered in favor of the Commission and against Defendant Dale in the amount of Four Million, Two Hundred Fifty One Thousand, Eight Hundred Seventy Six Dollars (\$4,251,876). This monetary judgment shall become immediately due and payable by Defendant Dale upon entry of this Order, and interest computed at the rate prescribed under 28 U.S.C. § 1961(a), as amended, shall immediately begin to accrue on the unpaid balance.

B. All payments under this Section shall be made by certified check or other guaranteed funds payable to and delivered to the Commission, or by wire transfer in accord with directions provided by the Commission.

C. All funds paid pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, consumer redress, and any attendant expenses for the administration of such equitable relief fund. If the Commission determines, in its sole discretion, that redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Amended Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendant Dale shall have no right to challenge the Commission's choice of remedies under this Section, and shall have no right to contest the manner of distribution chosen by the Commission. This judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture; and

D. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

### **III.**

#### **PROHIBITION ON COLLECTING ACCOUNTS**

**IT IS FURTHER ORDERED** that Defendant Dale, his officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them

who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any person, business, entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, are hereby permanently restrained and enjoined from attempting to collect, collecting, selling, or assigning, or otherwise transferring any right to collect payment for any services from any consumer who purportedly purchased or agreed to purchase any “website address” listings, domain name registration services, or “search optimization” services from any Defendant prior to the entry of this Order.

#### IV.

##### **PROHIBITIONS REGARDING CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendant Dale, his officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any person, business, entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, are hereby permanently restrained and enjoined from:

A. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer’s account (including a credit card, bank account, or other financial account), of any person which any Defendant obtained prior to entry of this Order in connection with the advertising, marketing, promotion, offering for sale, or sale of any “website address” listings, domain name registration services, or “search optimization” services;

and

B. Failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

*Provided, however,* that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

V.

**COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purposes of monitoring and investigating compliance with any provision of this Order:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant Dale shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in Defendant Dale's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to use all other lawful means, including but not limited to:

1. obtaining discovery from any person, without further leave of court, using

the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45, and 69;

2. having its representatives pose as consumers and suppliers to Defendant Dale, his employees, or any other entity managed or controlled in whole or in part by Defendant Dale, without the necessity of identification or prior notice; and

C. Defendant Dale shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

*Provided, however*, that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

## VI.

### COMPLIANCE REPORTING

**IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order,
  1. Defendant Dale shall notify the Commission of the following:
    - (a) Any changes in residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

- (b) Any changes in employment status (including self-employment), and any change in ownership interest in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business Defendant Dale is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of Defendant Dale's duties and responsibilities in connection with the business or employment; and
- (c) Any changes in Defendant Dale's name or use of any aliases or fictitious names within ten (10) days of the date of such change;

2. Defendant Dale shall notify the Commission of any changes in structure of 1646153 Ontario Inc. or any business entity that he directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any such change in the business entity about which Defendant Dale learns less than thirty (30) days prior to the date such action is to take place, he shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order and annually thereafter for a period of five (5) years, Defendant Dale shall provide a written report to the FTC, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which he has complied and is complying with this Order. This report shall include, but not be limited to:

1. His then-current residence address, mailing addresses, and telephone numbers;
2. His then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that he is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of his duties and responsibilities in connection with the business or employment;
3. A copy of each acknowledgment of receipt of this Order, obtained pursuant to the Section titled "Distribution of Order;" and
4. Any other changes required to be reported under Subsection A of this Section.

C. Defendant Dale shall notify the Commission of the filing of a bankruptcy petition within fifteen (15) days of filing;

D. For the purposes of this Order, Defendant Dale shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier all reports and notifications required by this Order to the Commission, to the following address:

Associate Director for Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580  
Re: *FTC v. Data Business Solutions Inc., et. al.*  
Civ. No. 08 C 2783 (N.D. Ill)

*Provided*, that, in lieu of overnight courier, Defendant Dale may send such reports or notifications by first-class mail, but only if he contemporaneously sends an electronic version of such report or notification to the Commission at: DEBrief@ftc.gov.

E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendant Dale.

## VII.

### RECORD KEEPING

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, Defendant Dale, for any business in which he is the majority owner or directly or indirectly controls, is hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts

paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly or indirectly, such as through a third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials, including direct mail solicitations and contracts sent to consumers; and

F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order required by the Sections titled "Distribution of Order" and "Acknowledgment of Receipt of Order" and all reports submitted to the FTC pursuant to the Section titled "Compliance Reporting."

## VIII.

### DISTRIBUTION OF ORDER

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, Defendant Dale shall deliver copies of this Order as directed below:

A. Defendant Dale as control person: For any business that Defendant Dale controls, directly or indirectly, or in which he has a majority ownership interest, Defendant Dale must deliver a copy of this Order to (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon Defendant Dale.

For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure.

B. Defendant Dale as employee or non-control person: For any business where Defendant Dale is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, he must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

C. Defendant Dale must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section.

**IX.**

**ACKNOWLEDGMENT OF RECEIPT OF ORDER**

**IT IS FURTHER ORDERED** that Defendant Dale, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

**X.**

**ENTRY OF THIS JUDGMENT**

**IT IS FURTHER ORDERED** that, as there is no just reason for delay of entry of this judgment, pursuant to Fed. R. Civ. P. 54(b), the clerk shall enter this Order immediately.

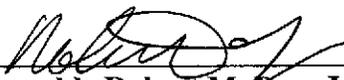
**XI.**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

**IT IS SO ORDERED.**

**DATED** this 30<sup>th</sup> day of March, 2010.

  
\_\_\_\_\_  
**Honorable Robert M. Dow Jr.**  
**United States District Judge**

Respectfully submitted by:

MARISSA J. REICH  
DAVID A. O'TOOLE  
Federal Trade Commission  
55 West Monroe Street, Suite 1825  
Chicago, IL 60603  
(312) 960-5634 [Telephone]  
(312) 960-5600 [Facsimile]