

1 WILLIAM BLUMENTHAL
General Counsel

2 RAYMOND E. MCKOWN, Bar # 150975
3 BARBARA Y. K. CHUN, Bar # 186907
Federal Trade Commission
4 10877 Wilshire Blvd., Ste. 700
Los Angeles, CA 90024
5 (310) 824-4343 (voice)
(310) 824-4380 (fax)
6 rmckown@ftc.gov
bchun@ftc.gov

JS - 6

7 BEVIN MURPHY
Federal Trade Commission
8 601 New Jersey Avenue, N.W.
Washington, D.C. 20580
9 (202)326-2191 (voice)
(202) 326-3629 (fax)
10 bmurphy1@ftc.gov

11 Attorneys for Plaintiff FTC

12
13 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

14
15 FEDERAL TRADE COMMISSION

CV 07-4880 ODW (AJWx)

16 Plaintiff,

~~SETTLEMENT AGREEMENT AND~~
17 ~~[Proposed]~~
STIPULATED FINAL ORDER FOR
18 PERMANENT INJUNCTION AND
19 MONETARY RELIEF

18 EDEBITPAY, LLC; EDP REPORTING,
19 LLC; EDP TECHNOLOGIES
20 CORPORATION; SECURE DEPOSIT
CARD, INC.; and

21 DALE PAUL CLEVELAND and
22 WILLIAM RICHARD WILSON;

cc: FISCAL

23 Defendants.

24
25 Plaintiff Federal Trade Commission (“FTC” or “Commission”) commenced this
26 civil action on July 30, 2007, pursuant to Section 13(b) of the Federal Trade
27 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to secure temporary, preliminary,
28 and permanent injunctive relief, rescission of contracts, restitution, disgorgement of
ill-gotten monies, and other equitable relief alleging that Defendants engaged in unfair

1 or deceptive acts or practices in violation of Section 5(a) of the FTC Act,
2 15 U.S.C. § 45(a).

3 Defendants, without any findings of fact except as expressly provided herein or
4 admission of any wrongdoing or violation of law, hereby agree to resolve this matter
5 as set forth herein and agree to the entry of this Settlement Agreement and Stipulated
6 Final Order for Permanent Injunction and Monetary Relief (“Order”).

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FINDINGS OF FACT

1. This Court has jurisdiction over the subject matter of this case and over Defendants.

2. Venue as to Defendants in the Central District of California is proper.

3. The activities of Defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

4. The Complaint states a claim upon which relief can be granted, and the Commission has the authority to seek the relief it has requested.

5. Defendants waive: (a) all rights to seek appellate review or otherwise challenge or contest the validity of this Order; (b) any claim Defendants may have against the Commission, its employees, representatives, or agents; (c) any claim Defendants may have against the Receiver, his employees, representatives, or agents; (d) all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996); and (e) any rights to attorneys’ fees that may arise under said provision of law.

6. This Order was drafted jointly by Plaintiff and Defendants and reflects the negotiated agreement of the parties.

7. Defendants have not admitted any cause of action in the Complaint and their agreement to settle and resolve this action shall not be interpreted to constitute an admission that they have engaged in any violation of any law or regulation.

8. The relief set forth in this Order is remedial in nature and shall not be construed as the payment of any fine, penalty, punitive assessment, or forfeiture.

9. Entry of this Order is in the public interest and in the interest of the parties.

1 DEFINITIONS

2 For purposes of this Order, the following definitions shall apply:

3 1. "Assisting Others" means knowingly providing any of the following goods
4 or services to another entity:

5 a. performing customer service functions, including but not limited to,
6 receiving or responding to consumer complaints;

7 b. formulating or providing, or arranging for the formulation or
8 provision of, any marketing materials;

9 c. providing names of, or assisting in the generation of, potential
10 customers; or

11 d. performing marketing services of any kind.

12 2. "Billing Information" means data, including but not limited to, name,
13 address, telephone number, email address, account number, routing number, date of
14 birth, or social security number, that enable any person to access a customer's or
15 donor's account, including but not limited to credit card, debit card, prepaid card,
16 checking, savings, utility, mortgage loan, share draft, or similar accounts.

17 3. "Business Entity Defendants" means EDebitpay, LLC; EDP Reporting,
18 LLC; EDP Technologies Corporation; and Secure Deposit Card, Inc., and each of
19 them by whatever names each might be known.

20 4. "Clearly and Conspicuously" means:

21 a. in textual communications (e.g., printed publications or words
22 displayed on the screen of an electronic device), the required disclosures are of a type
23 size and location sufficiently noticeable for an ordinary consumer to read and
24 comprehend them, in print that contrasts with the background on which they appear;

25 b. in communications disseminated orally or through audible means
26 (e.g., radio or streaming audio), the required disclosures are delivered in a volume and
27 cadence sufficient for an ordinary consumer to hear and comprehend them;

28 c. in communications disseminated through video means (e.g.,
television or streaming video), the required disclosures are in writing in a form

1 consistent with subparagraph (a) of this definition and shall appear on the screen for a
2 duration sufficient for an ordinary consumer to read and comprehend them;

3 d. in communications made through interactive media such as the
4 Internet, online services, and software:

5 i. the required disclosures are unavoidable and presented in a form
6 consistent with subparagraph (a) of this definition in addition to any audio or video
7 presentation of them; and

8 ii. "in close proximity" shall mean on the same webpage, online
9 service page, or other electronic page, and proximate to the triggering representation,
10 and shall not be accessed or displayed through hyperlinks, pop-ups, interstitials, or
11 other means; and

12 e. in all instances, the required disclosures are presented prior to the
13 consumer incurring any financial obligation, in an understandable language and
14 syntax, and with nothing contrary to, inconsistent with, or in mitigation of the
15 disclosures used in any communication with them.

16 5. "Defendants" means EDebitpay, LLC; EDP Reporting, LLC; EDP
17 Technologies Corporation; Secure Deposit Card, Inc.; Dale Paul Cleveland; and
18 William Richard Wilson, and each of them by whatever names each might be known.

19 6. "Document" is synonymous in meaning and equal in scope to the usage of
20 the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings,
21 graphs, charts, photographs, audio and video recordings, computer records, and other
22 data compilations from which the information can be obtained and translated, if
23 necessary, through detection devices into reasonably usable form. A draft or non-
24 identical copy is a separate document within the meaning of the term.

25 7. "Individual Defendants" means Dale Paul Cleveland and William Richard
26 Wilson, and each of them by whatever names each might be known.

27 8. "Marketing Affiliate" means any third party with which any Defendant has
28 an agreement under which:

a. the Defendant agrees to pay a commission or other compensation to

1 the Marketing Affiliate because the Marketing Affiliate has driven or referred
2 customers or potential customers to the Defendant; or

3 b. the Marketing Affiliate agrees to pay a commission or other
4 compensation to the Defendant because the Defendant has driven or referred
5 customers or potential customers to the Marketing Affiliate.

6 9. "Material" means likely to affect a person's choice of, or conduct regarding,
7 goods or services.

8 **I. RESTRICTIONS ON BUSINESS ACTIVITIES**

9 **IT IS THEREFORE ORDERED** that in connection with the advertising,
10 promotion, marketing, offering, or sale of goods or services by Internet or otherwise,
11 Defendants and their officers, directors, agents, servants, employees, salespersons,
12 independent contractors, corporations, subsidiaries, branches or business divisions,
13 attorneys, successors, assigns, and all other persons or entities in active concert or
14 participation with them who receive actual notice of this Order by personal service,
15 facsimile, email, or otherwise, whether acting directly or through any corporation,
16 subsidiary, division, or other entity are hereby restrained and enjoined from, directly
or indirectly:

17 A. Debiting or causing consumers' bank or financial accounts to be debited, or
18 assessing any fee or charge against consumers or their bank or financial accounts,
19 without first obtaining the consumers' express informed consent for the debit, charge,
20 or fee;

21 B. Misrepresenting, or assisting others in misrepresenting, expressly or by
22 implication, any fact material to a consumer's decision to apply for or purchase any
23 product or service offered by any Defendant, including but not limited to:

24 1. that consumers can obtain any product or service, including but not
25 limited to a prepaid card, debit card, or credit card, at no cost or obligation;

26 2. the amount of any fee, charge, or bill, including but not limited to the
27 cost of any prepaid card, debit card, or credit card;

28 3. that a consumer will not be assessed a fee, or be charged or billed;

- 1 4. that a consumer is legally obligated to pay a fee, charge, or bill;
- 2 5. any material provision relating to the acquisition or purchase of a
- 3 prepaid card, debit card, or credit card marketed or offered by any Defendant;
- 4 6. that consumers purchased or agreed to purchase goods or services, and
- 5 therefore owe money to any Defendant;

6 C. Failing to clearly and conspicuously disclose the costs, fees, or charges to
7 obtain and use any prepaid card, debit card, or credit card, and that Defendants will
8 use consumers' personally identifiable information to impose such costs, fees, or
9 charges, in close proximity to any instruction to provide personally identifiable
10 information, including but not limited to name, address, date of birth, social security
11 number, personal banking information, or billing information;

12 D. Failing to clearly and conspicuously disclose the costs, fees, or charges to
13 obtain and use any prepaid card, debit card, or credit card, in close proximity to
14 statements such as "No Annual Fees" or "No Security Deposit" that represent that a
15 prepaid card, debit card, or credit card can be obtained "free," without obligation, or at
16 a reduced cost;

17 E. Failing to clearly and conspicuously disclose prior to the time when a
18 consumer applies for or purchases any good or service offered by any Defendant, the
19 following material information, where applicable:

- 20 1. any fee, charge, or bill that will be assessed against consumers, their
21 financial accounts, or their bank accounts;
- 22 2. any method that will be used to debit, charge, or bill consumers' bank
23 or other financial accounts;
- 24 3. that consumers' billing information will be used to debit consumers'
25 bank or other financial accounts;
- 26 4. that consumers' billing information or other information will be sold
27 or transferred to third parties for marketing purposes;
- 28 5. the material attributes of the product or service offered or marketed,

1 e.g., that the product has the characteristics of a credit card, debit card, or stored value
2 card; and

3 6. if a representation is made about a refund or cancellation policy, a
4 statement of all material terms and conditions of such policy; or if there is a policy of
5 not making refunds or cancellations, this policy;

6 F. Directly or indirectly causing billing information to be submitted for
7 payment, in connection with the marketing or sale of any good or service, unless
8 Defendants first obtain the express informed consent of the customer for the fee,
9 charge or debit to or from a specified financial account, and Defendants adhere to the
10 requirements of Section I.E.;

11 G. Failing to investigate and resolve, within thirty (30) days of receipt, any
12 consumer complaint or request for refund pertaining to Defendants that is received by
13 Defendants, their successors, assigns, officers, agents, servants, salespersons,
14 employees, independent contractors, and attorneys, as well as those persons in active
15 concert or participation with them, whether acting directly or through any sole
16 proprietorship, partnership, limited liability company, corporation, subsidiary, branch,
17 division, or other entity, and to notify the consumer of the resolution of the complaint
18 or request and the reason therefor; and

19 H. Failing to take reasonable steps sufficient to monitor and ensure that all
20 Defendants' agents, representatives, employees, independent contractors, and
21 Marketing Affiliates comply with the requirements of Subsections I.A - I.G. Such
22 steps shall require, at a minimum, that prior to Defendants' acceptance of any
23 prospective Marketing Affiliate, Defendants shall:

- 24 1. provide the Marketing Affiliate with a copy of this Order;
- 25 2. obtain a signed and dated acknowledgment from the Marketing

26 Affiliate in which the Marketing Affiliate:

- 27 a. acknowledges receipt of this Order;
- 28 b. expressly agrees to distribute a copy of the Order to the

Marketing Affiliate's owners, managers, and division heads;

1 c. expressly agrees to comply with the terms of Section I; and
2 3. provide written notice to the Marketing Affiliate that failing to comply
3 with the terms of Section I will result in immediate termination of Defendants'
4 agreement with the Marketing Affiliate and the forfeiture of all monies earned or
5 owed.

6 II. MONETARY RELIEF

7 IT IS FURTHER ORDERED that:

8 A. In accordance with directions provided by the Federal Trade Commission,
9 Defendants shall pay to the Commission Two Million, Two Hundred Fifty-Eight
10 Thousand, Two Hundred Fifty-Eight Dollars (\$2,258,258), plus the net proceeds, if
11 any, from the sale of one automobile, VIN No. xxxxxxxxx04458. No portion of any
12 payment under this Order shall be deemed a payment of any fine, penalty, or punitive
13 assessment. The payment and the transfer of any net proceeds from the sale of the
14 identified automobile shall be made as follows:

15 1. The Temporary Receiver's settlement account currently holds Two
16 Million, One Hundred Twenty-Two Thousand, Twenty-Nine Dollars (\$2,122,029)
17 that is frozen pursuant to the Court's asset freeze. Upon Defendants' execution of this
18 Order, Defendants shall transfer an additional One Hundred Thirty-Six Thousand,
19 Two Hundred Twenty-Nine Dollars (\$136,229), and any other funds that are
20 necessary to bring the Temporary Receiver's settlement account holdings to Two
21 Million, Two Hundred Fifty-Eight Thousand, Two Hundred Fifty-Eight Dollars
22 (\$2,258,258). In addition, upon entry of this Order by the Court, Defendants shall
23 provide a power of attorney to the Temporary Receiver, which shall give the
24 Temporary Receiver full authority to sell the identified automobile, pay any
25 outstanding liens, and pay any net proceeds to the Commission as soon as practicable
26 after the sale of the identified automobile;

27 2. Within five (5) business days after entry of this Order, the Temporary
28 Receiver shall pay Two Million, Two Hundred Fifty-Eight Thousand, Two Hundred
Fifty-Eight Dollars (\$2,258,258), less any Court authorized payments to the

1 Temporary Receiver, from the Temporary Receiver's settlement account to the
2 Commission by wire transfer in accordance with directions provided by the
3 Commission. The Temporary Receiver shall remain in place at least through the
4 period during which the Temporary Receiver shall sell the identified automobile and
5 deliver to the Commission all payments identified in this Section II.A;

6 3. If the Commission or the Court fails to accept or approve this Order,
7 the Temporary Receiver's authority to hold the non-frozen funds, i.e., those in excess
8 of Two Million, One Hundred Twenty-Two Thousand, Twenty-Nine Dollars
9 (\$2,122,029), which Defendants transferred to the Temporary Receiver upon
10 Defendants' execution of this Order, shall terminate;

11 B. In addition to his obligations under Section II.A, by April 15, 2008, or
12 within ninety (90) days after entry of this Order, whichever is later, Defendant
13 Cleveland shall transfer and pay to the taxing authorities listed in the November 26,
14 2007, letter from defense counsel Michael Mallow to FTC counsel Raymond E.
15 McKown, a total of Six Hundred Sixty-Seven Thousand, Two Hundred Eighty-Eight
16 Dollars (\$667,288) distributed to those authorities in the manner described in said
17 letter from defense counsel. Within five (5) business days after such payments are
18 made, Defendant Cleveland shall provide proof of such payments to the FTC.

19 C. If, by April 15, 2008, or within ninety (90) days after entry of this Order,
20 whichever is later, Defendant Cleveland has paid less than Six Hundred Sixty-Seven
21 Thousand, Two Hundred Eighty-Eight Dollars (\$667,288) to the taxing authorities
22 identified in the November 26, 2007, letter from defense counsel Michael Mallow to
23 FTC counsel Raymond E. McKown, he shall pay the amount of such underpayment,
24 along with the amount of any interest or credit he receives on account of such
25 underpayment, to the FTC by April 29, 2008, or within one hundred five (105) days
26 after entry of this Order, whichever is later;

27 D. If Defendant Cleveland fails to pay the Six Hundred Sixty-Seven Thousand,
28 Two Hundred Eighty-Eight Dollar (\$667,288) total to the identified taxing authorities
or to the Commission, with interest if applicable, as required by Sections II.B and

1 I.I.C, then judgment in the amount of Twenty-Three Million, Six Hundred Ninety-
2 Seven Thousand, Nine Hundred Sixty Dollars (\$23,697,960) shall be entered and will
3 become immediately due and payable, less any amounts already paid, against
4 Defendant Cleveland. Provided however, Defendant Cleveland shall have a fourteen
5 (14) day period in which to cure his default on the Six Hundred Sixty-Seven
6 Thousand, Two Hundred Eighty-Eight Dollar (\$667,288) payment;

7 E. All funds paid to or received by the Commission pursuant to this Section
8 shall be deposited into a fund administered by the Commission or its agent. Funds
9 paid to or received by the Commission pursuant to this Section shall be used first to
10 pay Temporary Receiver Howard Camhi, all of the Temporary Receiver's reasonable
11 fees, expenses, and liabilities that have been or will be incurred in this action,
12 including any that may be paid after the Temporary Receiver has been discharged, and
13 second, for equitable relief, including but not limited to restitution to consumers, and
14 any attendant expenses for the administration of such equitable relief. In the event
15 that direct restitution to consumers is wholly or partially impracticable or funds
16 remain after restitution is completed, the Commission may apply any remaining funds
17 for such other equitable relief (including consumer information remedies) as it
18 determines to be reasonably related to Defendants' practices as alleged in the
19 Complaint. Any funds not used for such equitable relief will be deposited with the
20 United States Treasury as disgorgement. Defendants shall have no right to challenge
21 the Commission's choice of remedies under this Section. Defendants shall have no
22 right to contest the manner of distribution chosen by the Commission;

23 F. Defendants acknowledge and agree that all money paid pursuant to this
24 Order is irrevocably paid to the Commission for purposes of settlement between the
25 parties, and Defendants shall make no claim or demand for return of the funds,
26 directly or indirectly, through counsel or otherwise. In the event of bankruptcy of any
27 Defendant, such Defendant acknowledges that the funds are not part of the debtor's
28 estate, nor does the estate have any claim or interest therein;

G. Defendants shall provide the Commission, or its agent, within thirty (30)

1 days of such a request, the name, last known address, telephone number, e-mail
2 address, date of purchase, total amount paid to Defendants, amount of any full or
3 partial refund, and the complete file record, including computer records and
4 correspondence, for each consumer from whom Defendants debited funds, or who
5 paid Defendants or any entity owned or controlled, in full or in part, by any
6 Defendant, for any prepaid card or debit card, and any further information the
7 Commission deems necessary to effectuate any restitution program for consumers;

8 H. Unless already provided, each Defendant is hereby required, in accordance
9 with 31 U.S.C. § 7701, to furnish to the Commission their respective taxpayer
10 identifying numbers (social security numbers or employer identification numbers),
11 which will be used for purposes of collecting and reporting on any delinquent amount
12 arising out of such Defendant's relationship with the government; and

13 I. Any Redress Administrator shall destroy all records relating to this matter six
14 (6) years after the transfer of any remaining funds to the FTC Treasury account or the
15 closing of the account from which such funds were disbursed, whichever is earlier,
16 provided that no records shall be destroyed unless and until a representative of the
17 Commission has received and approved the Administrator's final accounting report.
18 Records shall be destroyed in accordance with disposal methods and procedures to be
19 specified by the Commission. The Commission may, in its sole discretion, require
20 that such records, in whole or in part, be transferred, in lieu of destruction, to the
21 Commission.

22 **III. RIGHT TO REOPEN**

23 **IT IS FURTHER ORDERED** that:

24 A. The Commission's agreement to this Order is expressly premised upon: (1)
25 timely payment pursuant to Section II of this Order; and (2) the truthfulness, accuracy,
26 and completeness of the individual and business financial statements and other
27 documents and information provided by Defendants that are identified in
28 Attachment A. Such financial statements, documents, and information constitute

1 material information upon which the FTC has relied in negotiating and agreeing to the
2 terms of this Order;

3 B. If, upon motion by the Commission, this Court finds that a Defendant has
4 (1) failed to disclose any material asset, materially misrepresented the value of any
5 asset, or made any other material misrepresentation in or omission from the submitted
6 financial statements, documents, or information identified in Attachment A, or (2)
7 failed to make timely payment to the FTC pursuant to Section II.A of this Order, then,
8 as to that Defendant, judgment in the amount of Twenty-Three Million, Six Hundred
9 Ninety-Seven Thousand, Nine Hundred Sixty Dollars (\$23,697,960) shall be entered
10 and will become immediately due and payable, less any amounts already paid. In
11 addition to modifying such Defendant's monetary liability pursuant to Section II.A of
12 this Order, the Court may order such Defendant to turn over any asset that he or it has
13 misrepresented or failed to disclose, or its liquid value, to the Commission, the value
14 of which shall be credited against the remaining balance of any judgment obtained by
15 the FTC pursuant to this Section. Provided however, that in all other respects this
16 Order shall remain in full force and effect, unless otherwise modified by the Court.
17 Modification of such Defendant's monetary liability as provided herein shall be in
18 addition to, and not in lieu of, any other remedies that may lie for any
19 misrepresentation in or omission from such Defendant's financial statement,
20 documents, or information as identified in Attachment A; and

21 C. While Defendants do not admit any of the allegations in the FTC's
22 Complaint, they nonetheless waive the right to contest those allegations in any
23 proceedings to enforce payment or in response to any motion brought under this
24 Section, including without limitation in any response to a nondischargeability
25 complaint filed in a bankruptcy proceeding.

26 IV. TERMINATION OF ASSET FREEZE

27 **IT IS FURTHER ORDERED** that the freeze on Defendants' assets ordered by
28 this Court shall terminate when the Commission files notice with the Court that the
payments identified in Section II.A, above, have been made.

1 **V. COMPLIANCE MONITORING**

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

4 A. Within ten (10) days of receipt of written notice from a representative of the
5 Commission, Dale Paul Cleveland, William Richard Wilson, EDebitPay, LLC, EDP
6 Reporting, LLC, EDP Technologies Corporation, and Secure Deposit Card, Inc., each
7 shall submit additional written reports, sworn to under penalty of perjury; produce
8 documents for inspection and copying; appear for deposition; and/or provide entry
9 during normal business hours to any business location in such Defendant's possession
10 or direct or indirect control, to inspect the business operation;

11 B. In addition, the Commission is authorized to monitor compliance with this
12 Order by all other lawful means, including but not limited to the following:

13 1. obtaining discovery from any person, without further leave of Court,
14 using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;

15 2. posing as consumers and suppliers to Dale Paul Cleveland, William
16 Richard Wilson, EDebitPay, LLC, EDP Reporting, LLC, EDP Technologies
17 Corporation, or Secure Deposit Card, Inc., their employees, or any other entity
18 managed or controlled in whole or in part by Dale Paul Cleveland, William Richard
19 Wilson, EDebitPay, LLC, EDP Reporting, LLC, EDP Technologies Corporation, or
20 Secure Deposit Card, Inc., without the necessity of identification or prior notice; and

21 C. Dale Paul Cleveland, William Richard Wilson, EDebitPay, LLC, EDP
22 Reporting, LLC, EDP Technologies Corporation, and Secure Deposit Card, Inc., shall
23 permit representatives of the Commission to interview any employer, consultant,
24 independent contractor, representative, agent, or employee who has agreed to such an
25 interview, relating in any way to any conduct subject to this Order. The person
interviewed may have counsel present;

26 provided however, that nothing in this Order shall limit the Commission's
27 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15
28 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony,

1 or information relevant to unfair or deceptive acts or practices in or affecting
2 commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

3 **VI. COMPLIANCE REPORTING BY DEFENDANTS**

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

6 A. For a period of five (5) years from the date of entry of this Order,

7 1. Dale Paul Cleveland and William Richard Wilson shall each notify the
8 Commission of the following:

9 a. any changes in his residence, mailing addresses, and telephone
10 numbers within ten (10) days of the date of such change;

11 b. any changes in his employment status (including self-
12 employment) and any change in his ownership interest in any business entity, within
13 ten (10) days of the date of such change. Such notice shall include the name and
14 address of each business that the Individual Defendant is affiliated with, employed by,
15 creates or forms, or performs services for; a statement of the nature of the business;
16 and a statement of his duties and responsibilities in connection with the business or
17 employment; and

18 c. any change in Dale Paul Cleveland's or William Richard
19 Wilson's name or use of any aliases or fictitious names;

20 2. Dale Paul Cleveland, William Richard Wilson, EDebitPay, LLC, EDP
21 Reporting, LLC, EDP Technologies Corporation, and Secure Deposit Card, Inc., shall
22 notify the Commission of any changes in the corporate or business structure of
23 EDebitPay, LLC, EDP Reporting, LLC, EDP Technologies Corporation, or Secure
24 Deposit Card, Inc., or any business entity that Dale Paul Cleveland or William
25 Richard Wilson directly or indirectly controls, or has an ownership interest in, that
26 may affect compliance obligations arising under this Order, including but not limited
27 to a dissolution, assignment, sale, merger, or other action that would result in the
28 emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or
affiliate that engages in any acts or practices that are subject to this Order; the filing of

1 a bankruptcy petition; or a change in the corporate or business entity name or address,
2 at least thirty (30) days prior to such change, provided that, with respect to any
3 proposed change in the corporation or business entity about which the Defendants
4 learn of less than thirty (30) days prior to the date such action is to take place,
5 Defendants shall notify the Commission as soon as is practicable after obtaining such
6 knowledge;

7 B. One hundred eighty (180) days after the date of entry of this Order, Dale
8 Paul Cleveland, William Richard Wilson, EDebitPay, LLC, EDP Reporting, LLC,
9 EDP Technologies Corporation, and Secure Deposit Card, Inc., shall each provide a
10 written report to the FTC, sworn to under penalty of perjury, setting forth in detail the
11 manner and form in which they have complied and are complying with this Order.

12 This report shall include, but not be limited to:

13 1. for Dale Paul Cleveland and William Richard Wilson:

14 a. the then-current residence address, mailing addresses, and
15 telephone numbers of each;

16 b. the then-current employment and business addresses and
17 telephone numbers of Dale Paul Cleveland and William Richard Wilson, a description
18 of the business activities of each such employer or business, and the title and
19 responsibilities of each Individual Defendant for each such employer or business; and

20 c. any other changes required to be reported under subparagraph A
21 of this Section VI;

22 2. for all Defendants:

23 a. a copy of each acknowledgment of receipt of this Order
24 obtained pursuant to Sections I and VIII; and

25 b. any other changes required to be reported under subparagraph A
26 of this Section VI;

27 C. For the purposes of this Order, Defendants shall, unless otherwise directed
28 by the Commission's authorized representatives, mail all written notifications to the
Commission to:

1 Associate Director, Division of Enforcement
2 Federal Trade Commission
3 601 New Jersey Avenue, N. W.,
Washington, DC 20580
4 RE: FTC v. EDebitPay

5 D. For purposes of the compliance reporting and monitoring required by this
6 Order, the Commission is authorized to communicate directly with Defendants,
subject to Defendant's expressed request to have counsel present.

7 **VII. RECORD KEEPING**

8 **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the
9 date of entry of this Order, in connection with any business where Dale Paul
10 Cleveland, William Richard Wilson, EDebitPay, LLC, EDP Reporting, LLC, EDP
11 Technologies Corporation, or Secure Deposit Card, Inc., is the majority owner of the
12 business or directly or indirectly manages or controls the business, in connection with
13 the marketing or sale of prepaid cards, debit cards, or credit cards, each Defendant and
14 its agents, employees, officers, corporations, successors, and assigns, and those
15 persons in active concert or participation with them who receive actual notice of this
16 Order by personal service or otherwise, are hereby restrained and enjoined from
failing to create and retain the following records:

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

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

23 C. Customer files containing the names, addresses, phone numbers, dollar
24 amounts paid, quantity of items or services purchased, and description of items or
25 services purchased, to the extent such information is obtained in the ordinary course of
business;

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

1 E. Copies of all sales scripts, training materials, advertisements, or other
2 marketing materials; and

3 F. All records and documents necessary to demonstrate full compliance with
4 each provision of this Order, including but not limited to, copies of acknowledgments
5 of receipt of this Order, required by Sections I, VIII, and IX, and all reports submitted
6 to the FTC pursuant to Section VI.

7 **VIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

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

10 A. Business Entity Defendants: EDebitPay, LLC, EDP Reporting, LLC, EDP
11 Technologies Corporation, and Secure Deposit Card, Inc., must each deliver a copy of
12 this Order to all of its principals, officers, directors, and managers. These Business
13 Entity Defendants must also deliver a copy of this Order to all of their employees who
14 are engaged in conduct related to the advertising, marketing, sale, or delivery of,
15 prepaid cards, debit cards, credit cards, consumer information, or other products or
16 services sold by Defendants, or any division that responds to consumer complaints or
17 inquiries regarding such products. For current personnel, delivery shall be within five
18 (5) days of service of this Order upon Defendants. For new personnel, delivery shall
19 occur prior to them assuming their responsibilities;

20 B. Dale Paul Cleveland or William Richard Wilson as control person: For any
21 business that Dale Paul Cleveland or William Richard Wilson controls, directly or
22 indirectly, or in which Dale Paul Cleveland or William Richard Wilson has a majority
23 ownership interest, the Individual Defendant must deliver a copy of this Order to all
24 principals, officers, directors, and managers of that business. The Individual
25 Defendant must also deliver copies of this Order to all employees, agents, and
26 representatives of that business who engage in conduct related to the subject matter of
27 the Order. For current personnel, delivery shall be within five (5) days of service of
28 this Order upon Defendants. For new personnel, delivery shall occur prior to them
assuming their responsibilities;

C. Dale Paul Cleveland or William Richard Wilson as employee or non-control
person: For any business where Dale Paul Cleveland or William Richard Wilson is not

1 a controlling person of a business but otherwise supervises or engages in conduct
2 related to the subject matter of this Order, the Individual Defendant must deliver a
3 copy of this Order to all principals and managers of such business before engaging in
4 such conduct; and

5 D. EDebitPay, LLC, EDP Reporting, LLC, EDP Technologies Corporation,
6 and Secure Deposit Card, Inc., Dale Paul Cleveland, and William Richard Wilson
7 must secure a signed and dated statement acknowledging receipt of this Order, within
8 thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to
9 this Section.

10 **IX. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

11 **IT IS FURTHER ORDERED** that each Defendant, within five (5) business
12 days of receipt of this Order as entered by the Court, must submit to the Commission a
13 truthful sworn statement acknowledging receipt of this Order. An example of such a
14 form is provided as Attachment B.

15 **X. RESTRICTIONS ON ACTS INVOLVING**
16 **PREVIOUS CUSTOMERS AND OTHER PERSONS**

17 **IT IS FURTHER ORDERED** that Defendants and their officers, directors,
18 agents, servants, employees, salespersons, independent contractors, corporations,
19 subsidiaries, branches or business divisions, attorneys, successors, assigns, and all
20 other persons or entities in active concert or participation with them who receive
21 actual notice of this Order by personal service, facsimile, email, or otherwise, whether
22 acting directly or through any corporation, subsidiary, division, or other entity are
23 hereby permanently restrained and enjoined from:

24 A. Selling, renting, leasing, transferring, or otherwise disclosing the name,
25 address, telephone number, email address, financial account number, social security
26 number, or other information that identifies a consumer, where such information was
27 obtained by Defendants prior to August 13, 2007; and

28 B. Soliciting or assisting others to solicit any consumer whose identifying
information was obtained by Defendants prior to August 13, 2007;

1 provided however, that notwithstanding the foregoing, Defendants may not sell, rent,
2 lease, transfer, or otherwise disclose the name, address, telephone number, email
3 address, financial account number, social security number, or other information that
4 identifies a consumer, or solicit or assist others to solicit any consumer, if at the time
5 of such action Defendants are not complying with any provision of Section I.

6 **XI. RETENTION OF JURISDICTION**

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

9 **XII. COSTS AND ATTORNEYS' FEES**

10 **IT IS FURTHER ORDERED** that each party shall bear its own costs and
11 attorneys' fees incurred in connection with this action.

12 **IT IS SO ORDERED.**

13
14
15 Date: January 17, 2008



16 _____
17 Honorable Otis D. Wright II
18 United States District Judge

19 Date:

20 _____
21 Raymond E. McKown, Esq.
22 Barbara Y.K. Chun, Esq.
23 Bevin Murphy, Esq.
24 Attorneys for Plaintiff
25 Federal Trade Commission

26 Date:

27 _____
28 Dale Paul Cleveland, individually, and as
an officer of EDebitPay, LLC, EDP
Reporting, LLC, EDP Technologies
Corporation, and Secure Deposit Card,
Inc.

Date:

William Richard Wilson, individually,

and as an officer of EDebitPay, LLC, EDP Reporting, LLC, EDP Technologies Corporation, and Secure Deposit Card, Inc.

1
2
3 Date:

4 _____
5 EDebitPay, LLC by its officer
6 Dale Paul Cleveland or William Richard
7 Wilson

8
9 Date:

10 _____
11 EDP Reporting, LLC by its officer
12 Dale Paul Cleveland or William Richard
13 Wilson

14
15 Date:

16 _____
17 EDP Technologies Corporation, by its
18 officer Dale Paul Cleveland or
19 William Richard Wilson

20
21 Date:

22 _____
23 Secure Deposit Card, Inc., by its officer
24 Dale Paul Cleveland or William Richard
25 Wilson

26 APPROVED AS TO FORM:

27 Date:

28 _____
Michael L. Mallow, Esq.
Loeb & Loeb, LLP
Attorney for Defendants
EDebitPay, LLC, EDP Reporting, LLC,
EDP Technologies Corporation, Secure
Deposit Card, Inc., Dale Paul Cleveland,
and William Richard Wilson

Date:

Howard Camhi, Esq., Temporary
Receiver for EDebitPay, LLC, EDP
Reporting, LLC, EDP Technologies
Corporation, and Secure Deposit Card,
Inc.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTACHMENT A
[List of Documents and Information Relied On By the Commission]

EdebitPay:

Form Re: Financial Statement for Business Entity Defendant with attachments,
signed 8/10/07 by Dale Paul Cleveland
09/26/07 Email from Michael Langston, Van Nuys Flight Center, to Paul
Cleveland, and 09/20/07 Fax from Cessna Finance

Dale Paul Cleveland:

Form Re: Financial Statement for Individual Defendant with attachments,
signed 8/6/07 by Dale Paul Cleveland
11/13/07 Letter from Nathan Pratt re: Emergency Sale of 12027 Talus Place

William Richard Wilson:

Form Re: Financial Statement for Individual Defendant with attachments,
signed 8/8/07 by William Richard Wilson
9/25/07 Letter from Nathan Pratt re: Emergency Sale of 953 Laurel, Los
Angeles, CA 90046

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTACHMENT B

UNITED STATES DISTRICT COURT

_____ DISTRICT OF _____

)
)
FEDERAL TRADE COMMISSION,)
)

Plaintiff,)
)

v.)

DEFENDANT, et al.)
)

Defendants.)
)

CIVIL ACTION NO.

AFFIDAVIT OF
DEFENDANT -----

[Name of defendant], being duly sworn, hereby states and affirms as follows:

1. My name is _____. My current residence address
is _____. I am a citizen
of the United States and am over the age of eighteen. I have personal knowledge of

1 the facts set forth in this Affidavit.

2 2. I am a defendant in FTC v. Defendant, et al. (United States District Court
3 for the _____ District of _____).

4 3. On [date], I received a copy of the [state full name of the Final Order as
5 it appears on the Order itself], which was signed by the Honorable [name of U.S.
6 District Judge] and entered by the Court on [date of entry of Order].

7 I declare under penalty of perjury under the laws of the United States that the
8 foregoing is true and correct. Executed on [date], at [city and state].

9 _____
10 [Full name of defendant]

11 State of _____, City of _____

12 Subscribed and sworn to before me this _____ day of _____, 2007 _____.

13 _____
14 Notary Public
15 My Commission Expires:
16 _____

17 acknowledging receipt of this Order.

