1 Daniel L. Balsam (State Bar No. 260423)
2 3145 Geary Blvd. #225
   San Francisco, CA 94118
3 Tel:
4 Fax:

5 *In proporia personum*

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12   SUPERIOR COURT OF CALIFORNIA

13   COUNTY OF SAN FRANCISCO (SMALL CLAIMS DIVISION)

14

15 DANIEL L. BALSAM,   ) Case No.:   CSM-10-832345
)
16   Plaintiff,   ) [PROPOSED] ORDER FINDING
17   ) NAMECHEAP INC. IN CONTEMPT OF
    v.   ) COURT AND AWARDING MONIES TO
18   ) PLAINTIFF
19 ████████████████████████████████   )
) Date: Feb. 24, 2010
20   ) Time: 8:30 am
21   Defendants.   ) Dept: 506
22   )
) Complaint Filed: Jan. 12, 2010
23

24   The above-referenced case on regularly for hearing on February 24, 2010 at 8:30 am in

25 Department 506 of the Superior Court of California, County of San Francisco. Plaintiff appeared

26 on his own behalf. No one appeared on behalf of any defendant. The Court notes that Plaintiff

27 has not filed proofs of service as to any defendant.

28   Plaintiff obtained and served small claims subpoenas (SC-107) on witnesses GoDaddy

29 Inc., eNom Inc., and NameCheap Inc. requesting the true identities and addresses of the

30 individual(s) using the domain names at issue to send unsolicited commercial email.

31

1

1   The Court finds that Plaintiff's process server effected service of the subpoena on

2   NameCheap Inc. on January 20, 2010 (more than 30 days before this hearing). *See* Attachment

3   1. NameCheap Inc. was served at its claimed business address: 8939 S. Sepulveda Blvd. #110-

4   732, Los Angeles, CA 90045. *See* Attachment 2 (a page from NameCheap Inc.'s Privacy

5   Policy). The Court finds that this address is actually a box at a branch of The UPS Store. *See*

6   Attachment 3. The Court finds that service at The UPS Store, a commercial mail receiving

7   agency, is proper pursuant to Cal. Business & Professions Code § 17538.5(c) and (d).

8   The subpoena to NameCheap Inc. demanded the identity and address of the individual(s)

9   who registered the domain name ███████████ through NameCheap Inc.

10   Plaintiff testified that NameCheap Inc. never mailed a copy of the declaration of

11   custodian of records to him.

12   NameCheap Inc. has not sent any documents responsive to the subpoena to this Court, in

13   disregard of the subpoena.

14

15   IT IS HEREBY ORDERED:

16   1. That NameCheap Inc. is in contempt of court due to failure to obey the subpoena.

17   2. That NameCheap Inc. is liable to Plaintiff Daniel L. Balsam for the sum of Five Hundred

18   Dollars ($500.00) due to its failure to obey the subpoena.

19   3. That NameCheap Inc. is additionally liable to Plaintiff Daniel L. Balsam for the sum of

20   Forty Five Dollars ($45.00) for cost of service of the subpoena.

21

22   IT IS SO ORDERED.

23

24   Date: ____FEB 2 4 2010____   BY:____COMMISSIONER PAUL SLAVIT____
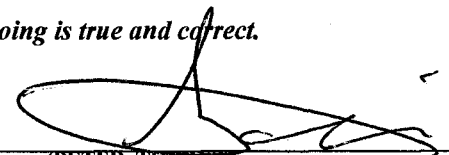
25   JUDGE OF THE SUPERIOR COURT

[PROPOSED] ORDER FINDING NAMECHEAP INC. IN CONTEMPT OF COURT
AND AWARDING MONIES TO PLAINTIFF

Attachment 1

Proof of Service

Attorney or Party without Attorney:		*For Court Use Only*
DANIEL L. BALSAM 3145 GEARY BLVD. # 225 SAN FRANCISCO, CA 94118 *Telephone No:* 415/276-3067		
Attorney for: Plaintiff	*Ref. No. or File No.:* C614886	

Insert name of Court, and Judicial District and Branch Court:

SUPERIOR COURT, SAN FRANCISCO

Plaintiff: Daniel L. Balsam

Defendant: Jack Johnson, Thir Eng, Joe howie

PROOF OF SERVICE **SMALL CLAIMS SUBPOENA**	*Hearing Date:* Wed, Feb. 24, 2010	*Time:* 8:30AM	*Dept/Div:* 506	*Case Number:* CSM-10-832345

1. *At the time of service I was at least 18 years of age and not a party to this action.*

2. I served copies of the SMALL CLAIMS SUBPOENA AND DECLARATION; AFFIDAVIT OF CUSTODIAN OF RECORDS CERTIFYING THE AUTHENTICITY OF BUSINESS RECORDS (CAL.EV.CODE 1561).

3. *a. Party served:*   NAMECHEAP, INC. C/O THE UPS STORE, AGENT FOR SERVICE OF PROCESS (B&P CODE 17538.5 (C), (D))

   b. Person served: JOHN DOE, MANAGER/AGENT FOR SERVICE

4. *Address where the party was served:*   THE UPS STORE
8939 S. SEPULVEDA BLVD.
#110-732
LOS ANGELES, CA 90045

5. *I served the party:*

   a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on: Wed., Jan. 20, 2010 (2) at: 4:00PM

   b. I received this subpena for service on: Wednesday, January 20, 2010

6. *Witness fees were not demanded or paid.*

7. ***Person Who Served Papers:***   Recoverable Cost Per CCP 1033.5(a)(4)(B)

   a. PETER TORRES

   b. **In-House Services**

      10351 Santa Monica Blvd.

      Suite 101A

      LOS ANGELES, CA 90025

   c. 310 557-9666

   d. ***The Fee*** *for Service was:* $45.00

   e. I am: (3) registered California process server

      (i) Employee

      (ii) Registration No.:   5991

      (iii) County: Los Angeles

8. ***I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.***

Date:Fri, Jan. 22, 2010

(PETER TORRES)

Attachment 2

NameCheap Inc.'s Address

If You have questions or concerns regarding this statement, You can contact NameCheap at support@namecheap.com. You may write to Us at the following address:

Namecheap.com
8939 S. Sepulveda Blvd. #110 - 732,
Westchester,
CA 90045
US

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Please send your questions/ comments to us at support@namecheap.com

Switch to mobile version of Namecheap.com

Attachment 3

NameCheap's Address is a Box at a Branch of The UPS Store

The UPS Store ®

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The UPS Store #4417
in WESTCHESTER**

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Welcome to the Westchester/LAX UPS Store. Our convenient distance from the airport allows you to ship ahead of time and avoid long airport lines.

**8939 S SEPULVEDA BLVD
STE 110
WESTCHESTER, CA 90045**
WESTCHESTER VILLAGE BETWEEN
MANCHESTER & WESTCHESTER
PARKWAY
(Map/Directions)

Phone: (310)216-1324
Fax: (310)216-1306
Email: store4417@theupsstore.com

Regular Hours of Operation:

Monday	8:00 AM - 6:30 PM
Tuesday	8:00 AM - 6:30 PM
Wednesday	8:00 AM - 6:30 PM
Thursday	8:00 AM - 6:30 PM
Friday	8:00 AM - 6:30 PM
Saturday	9:00 AM - 3:00 PM

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Customer Service | UPS.com

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