

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

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DATATECH COMMUNICATIONS, INC.,
a corporation,

9106-3925 QUEBEC, INC., a corporation,
d/b/a DATATECH COMMUNICATIONS, INC.,

9102-3127 QUEBEC, INC., a corporation,
d/b/a I-POINT MEDIA,

ROBERT BREWER, individually and as an
owner, officer or director of the corporations,

ELIAS BAKOMICHALIS, individually and as
an owner, officer or director of the corporations,
and,

GREGORY MacNEIL, individually and as an
owner, officer or director of the corporations,

Defendants.

Civil No.

03C 6249

JUDGE JOAN H. LEFKOW

MAGISTRATE JUDGE BOBRICK

**PROPOSED TEMPORARY RESTRAINING ORDER WITH ASSET
FREEZE AND OTHER EQUITABLE RELIEF AND ORDER TO SHOW
CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

Plaintiff, Federal Trade Commission ("FTC" or "Commission"), having filed its
Complaint for a Permanent Injunction and Other Equitable Relief in this matter, pursuant to
Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and having
moved *ex parte* for a Temporary Restraining Order with Asset Freeze and Other Equitable Relief

(“TRO”), and for an Order to Show Cause Why a Preliminary Injunction Should Not Issue pursuant to Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65, and the Court having considered the Complaint, declarations, exhibits, and memorandum of law filed in support of such motion, and now being advised in the premises, finds that:

1. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that the Court will have jurisdiction over the parties;

2. Venue properly lies with this Court;

3. There is good cause to believe that Defendants, Datatech Communications, Inc., 9106-3925 Quebec Inc., d/b/a Datatech Communications Inc., 9102-3127 Quebec Inc., d/b/a I-Point Media, Robert Brewer, Elias Bakomichalis, and Gregory MacNeil, have engaged in, and are likely to engage in, acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that the Commission is likely to prevail on the merits of this action;

4. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition or concealment by Defendants of their assets or records unless Defendants are immediately restrained and enjoined by Order of this Court. There is therefore, good cause for the entry of the ancillary relief contained in this Order, including freezing the Defendants' assets, prohibiting them from destroying records, and requiring them to repatriate assets transferred abroad;

5. There is good cause for issuing this Order pursuant to Federal Rule of Civil Procedure 65(b) and for relieving the Plaintiff of the duty to provide Defendants with prior notice of the Plaintiff's motion;

6. Weighing the equities and considering the Plaintiff's likelihood of ultimate success, a TRO with asset freeze, and other equitable relief, is in the public interest; and

7. No security is required of any agency of the United States for the issuance of a temporary restraining order. *See*, Fed. R. Civ. P. 65(c).

DEFINITIONS

1. **"Plaintiff"** means the Federal Trade Commission.

2. **"Defendant"** or **"Defendants"** means Datatech Communications, Inc., 9106-3925 Quebec Inc., d/b/a Datatech Communications, Inc., 9102-3127 Quebec, Inc., d/b/a I-Point Media, and Robert Brewer, Elias Bakomichalis, and Gregory MacNeil, individually and as officers and directors of the corporate defendants.

3. **"Asset"** or **"Assets"** means any legal or equitable interest in, right to, or claim to, any real and/or personal property, including without limitation, chattels, goods, instruments, equipment, fixtures, general intangibles, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, shares of stock, and all cash, wherever located.

4. **"Material"** means likely to affect a person's choice of, or conduct regarding, goods or services.

5. **"Person"** 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.

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

7. **“Document”** is synonymous in meaning and equal in scope to the term, as defined in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, 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 this term.

8. **“Financial Institution”** means any bank, savings and loan institution, credit union, or any financial depository of any kind, including, but not limited to, any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

9. **“Assisting”** means providing substantial assistance or support to any seller or telemarketer, when that person knows or consciously avoids knowing, that the seller or telemarketer is engaged in an unfair or deceptive act or practice. For purposes of this Order providing substantial assistance or support includes, but is not limited to: (a) 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; (b) developing, providing or arranging for the development or provision of sales scripts or any other marketing material; (c) providing names of, or arranging for the provision of names, of potential customers; or (d) performing marketing services of any kind.

ORDER

I.

PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary division, or other device, or any of them, in connection with the advertising, promotion, offering for sale, sale, or provision of any good or service, including, but not limited to, business directory listings and business directories, are:

- A. Temporarily restrained and enjoined from:
1. Misrepresenting, directly or by implication, that consumers have a preexisting business relationship with the Defendants, and that Defendants are telephoning consumers to renew a previous directory listing;
 2. Misrepresenting, directly or by implication, that consumers have a right to cancel their directory listings without financial obligation;
 3. Misrepresenting, directly or by implication, through, *inter alia*, telephone calls, invoices, or letters, that consumers purchased listings in Defendants' business directories that were shipped and/or billed to them by the Defendants;

4. Misrepresenting, directly or by implication, the nature of Defendants' relationship with consumers, and the purpose of their communication with consumers; and,
5. Misrepresenting, directly or by implication, any fact material to a consumer's decision to purchase any good or service;

B. Required to disclose in outbound telephone calls to consumers, promptly and in a clear and conspicuous manner: (1) the identity of the seller; (2) that the purpose of the call is to sell goods or services; and, (3) the nature of the goods or services.

II.

ASSET FREEZE

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary division, or other device, or any of them, except as provided in Section III below, as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined from:

A. Selling, liquidating, assigning, transferring, converting, loaning, encumbering, pledging, concealing, dissipating, spending, withdrawing, or otherwise disposing of any funds, real or personal property, or other assets or any interest therein, wherever located, including any assets outside the territorial United States, which are:

1. In the actual or constructive possession of any Defendant; or
2. Owned or controlled by, or held, in whole or in part for the benefit of, or subject to access by, or belonging to, any Defendant; or
3. In the actual or constructive possession of, or owned or controlled by, or subject to access by, or belonging to, any corporation, partnership, trust or any other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Defendant, including, but not limited to, any assets held by or for any Defendant at any bank or savings and loan institution, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, common carrier, credit card processing agent, customs broker, commercial mail receiving and/or forwarding agency, commercial freight holding and/or forwarding agency, or other financial institution or depository of any kind including, but not limited to, assets at the following banks or any branches thereof:
 - a. Chittenden Bank, 15 Canada Street, Swanton, Vermont 05488, Account Number 04-45-3863-6; and,
 - b. Bank of Montreal, 1299 Greene Avenue, Westmount, Quebec H3Z 2A6, Account Numbers 0166-1080-8900 and 0166-4609-365;

B. Opening or causing to be opened any safe deposit boxes titled in the name of any Defendant, or subject to access by any Defendant or under any Defendant's control, without providing Plaintiff prior notice and a reasonable opportunity to first inspect the contents in order to determine that they contain no assets covered by this Section;

C. Incurring charges on any credit card issued in the name, singly or jointly, of any Defendant;

D. Transferring any funds or other assets subject to this Order for attorney's fees or living expenses, except from accounts or other assets identified by prior written agreement with counsel for the Commission; provided that no attorney's fees or living expenses, other than those set forth in Subsection E of this Section, and only in accordance with the procedures set forth in Subsection E of this Section, shall be paid from funds or other assets subject to this Order until the financial statements required by Section V are provided to counsel for the Commission;

E. Notwithstanding the above, any Defendant may pay from his personal funds reasonable, usual, ordinary, and necessary living expenses and attorney's fees, not to exceed \$1,000, prior to the submission of the financial statements required by Section V. No such expenses, however, shall be paid from funds subject to this Order except from cash on the person of any Defendant, or from an account designated by prior written agreement with counsel for the Commission; and

F. The funds, property and assets affected by this Section shall include both existing assets and assets acquired after the effective date of this Order, including without limitation, those acquired by loan or gift. Defendants shall hold all assets, including without limitation, payments, loans, and gifts, received after service of this Order.

III.

REPATRIATION OF FOREIGN ASSETS AND DOCUMENTS

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries,

affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, shall immediately hold and retain all funds, documents, and assets outside of the United States in foreign countries held either: (1) by them; (2) for their benefit; or (3) under their direct or indirect control, jointly, severally, or individually. In addition, within three (3) business days following service of this Order the Defendants shall:

A. Repatriate to the territory of the United States of America all funds, documents, and assets in foreign countries held either: (1) by them; (2) for their benefit; or (3) under their direct or indirect control, jointly, severally, or individually. In addition, Defendants shall notify the Commission the same day any repatriation of such funds, documents, and assets occurs, including the name and location of the financial institution or other entity that is the recipient of such funds, the amount of the funds repatriated, and the account number into which the funds are deposited;

B. Provide Plaintiff with a full accounting of all funds, documents, and assets that are located outside of the territory of the United States of America that are held by or for any Defendant or are under any Defendant's direct or indirect control, jointly, severally, or individually, including the names and address of any foreign or domestic financial institution or other entity holding the assets, along with the account numbers and balances; and

C. Provide Plaintiff access to Defendants' records and documents held by financial institutions or other entities outside the territorial United States, by signing and delivering to

Plaintiff's counsel the Consent to Release of Financial Records attached to this Order as **Attachment A.**

IV.

INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by Section III of this Order, including, but not limited to:

A. Sending any statement, letter, facsimile, e-mail or wire transmission, or telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a "duress" event has occurred under the terms of a foreign trust agreement, until such time that all assets have been fully repatriated pursuant to Section III of this Order; and

B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time as all assets have been fully repatriated pursuant to Section III of this Order.

V.

COMPLETE FINANCIAL STATEMENTS

IT IS FURTHER ORDERED that at least three (3) calendar days prior to the preliminary injunction hearing in this matter, and in no event later than ten (10) calendar days after entry of this Order, each Defendant shall provide to counsel for the Commission:

A. A completed financial statement accurate as of the date of service of this Order upon such Defendant, in the form provided as **Attachment B** for individuals and **Attachment C** for businesses, along with the required attachments. Attachments B and C are the Department of Treasury – Internal Revenue Service Collection Information Statement for Individuals (Form 433-A), and the corresponding Collection Information Statement for Businesses (Form 433-B), which can also be found at www.irs.gov/pub/irs-pdf/f433a.pdf and www.irs.gov/pub/irs-pdf/f433b.pdf; and

B. A completed statement, verified under oath, of all payments, transfers, or assignments of funds, assets, or property worth \$1,000 or more since January 1, 2002. Such statement shall include: (1) the amount transferred or assigned; (2) the name, address, and telephone number of each transferee or assignee; (3) the date of the assignment or transfer; (4) the type and amount of consideration paid by or to the Defendant. Each statement shall specify the name and address of each financial institution or brokerage firm at which the Defendant has accounts or safe deposit boxes. Said statements shall include assets held in foreign as well as domestic accounts.

VI.

DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS

IT IS FURTHER ORDERED that any of the entities referred to in Section II above, maintaining or having custody or control of any account or other asset of any Defendant, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Defendant, or that at any time since January 1999, has

maintained or had custody of any such account or other asset, and which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

A. Hold and retain within such entity's or person's control, and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of any funds, documents, property, or other assets held by or under such entity's or person's control:

1. On behalf of, or for the benefit of, any Defendant or other party subject to Section II above;
2. In any account maintained in the name of, or subject to withdrawal by, any Defendant or other party subject to Section II above; and
3. That are subject to access or use by, or under the signatory power of, any Defendant or other party subject to Section II above;

B. Deny access to any safe deposit boxes that are either:

1. Titled in the name, individually or jointly, of any Defendant or other party subject to Section II above; or
2. Subject to access by any Defendant or other party subject to Section II above;

C. Provide to counsel for the Commission, within three (3) business days, by facsimile or by overnight delivery, a statement setting forth:

1. The identification of each account or asset titled in the name, individually or jointly, or held on behalf of, or for the benefit of, any Defendant or other party subject to Section II above, whether in whole or in part;

2. The balance of each such account, or a description of the nature and value of such asset;
3. The identification of any safe deposit box that is either titled in the name of, individually or jointly, or is otherwise subject to access or control by, any Defendant or other party subject to Section II above, whether in whole or in part; and
4. If the account, safe deposit box, or other asset has been closed or removed, the date closed or removed and the balance on said date;

D. The accounts subject to this provision include existing assets and assets deposited after the effective date of this Order. This Section shall not prohibit transfers in accordance with any provision of this Order, or any further order of the Court; and

E. Within five (5) business days of the date of service of this Order provide to counsel for Plaintiff a certified statement setting forth:

1. The identification of each account or asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of, any Defendant, including all trust accounts managed on behalf of any Defendant or subject to any Defendant's control;
2. The balance of each such account, or a description and appraisal of the value of such asset, as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed since January 1999, the date closed or removed, the total funds

removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and

3. The identification and location of any safe deposit box or storage facility that is either titled in the name individually or jointly, of any Defendant, or is otherwise subject to access or control by any Defendant.

VII.

DUTIES OF THIRD PARTIES TO WITHHOLD MAIL ACCEPTED ON BEHALF OF DEFENDANTS

IT IS FURTHER ORDERED that all commercial mail receiving and/or forwarding agencies, commercial freight holding and/or forwarding agencies, customs brokers, or other parties holding, receiving, or forwarding mail and/or freight on behalf of the Defendants, including, but not limited to, American Warehouse Inc., 4 Wilder Drive, Unit #6, Plaistow, New Hampshire 03865, RH Express Inc., 87 Smith Corner Road, Newton, New Hampshire 03858, A.N. Deringer, Inc., #8 12th Street, Blaine, Washington 98230 and Touchpoint Logistics, 1925 Holmes Road, Suite 200, Elgin, Illinois 60123, or any branches thereof, and which are served with a copy of this Order, or otherwise have actual or constructive knowledge of this Order, shall, immediately retain all mail received that is addressed to Defendants Datatech Communications, Inc., 9106-3925 Quebec Inc., d/b/a Datatech Communications, Inc., and 9102-3127 Quebec Inc., d/b/a I-Point Media, and/or addressed to any other name under which the Defendants are doing business, and shall within five (5) days of the date of service of this Order forward to Plaintiff, at the address designated in Section XVIII of this Order, all mail received that is addressed to the Defendants named in this Section, and thereafter continue to forward all mail to Plaintiff throughout the duration of this Order on a weekly basis.

VIII.

RECORD KEEPING/MAINTAINING BUSINESS RECORDS

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from:

A. Failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipts ledgers, cash disbursements ledgers and source documents, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of Defendants; and

B. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, contracts, agreements, customer files, customer lists, customer addresses and telephone numbers, correspondence, advertisements, brochures, sales material, training material, sales presentations, documents evidencing or referring to Defendants' products or services, data, computer tapes, disks, or other computerized records, books, written or printed records, handwritten notes, telephone logs, "verification" or "compliance" tapes or other audio or video tape recordings, receipt books, invoices, postal receipts, ledgers, personal and business canceled checks (fronts and backs) and check registers, bank statements, appointment books, copies of federal, state or local business or personal income

or property tax returns, and other documents or records of any kind, including electronically-stored materials, that relate to the business practices or business or personal finances of Defendants or other entities directly or indirectly under the control of Defendants.

IX.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each affiliate, partner, division, sales entity, successor, assign, officer, director, employee, independent contractor, agent, attorney, and/or representative of any Defendant. Within five (5) calendar days following service of this Order by Plaintiff, Defendants shall serve on Plaintiff an affidavit identifying the name, title, address, telephone number, date of service, and manner of service of each person or entity Defendants served with a copy of this Order in compliance with this provision.

X.

SERVICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by facsimile transmission, personal or overnight delivery, or by first class mail, by agents and employees of the Commission or any state, federal or international law enforcement agency, or by private process server, on: (1) Defendants; (2) any financial institution, entity, or person that holds, controls, or maintains custody of any documents or assets of any Defendant, or that held, controlled, or maintained custody of any documents or assets of any Defendant; or (3) any other person or entity that may be subject to any provision of this Order. Service upon any branch or

office of any financial institution or entity shall effect service upon the entire financial institution or entity.

XI.

CONSUMER REPORTS

IT IS FURTHER ORDERED that pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish a consumer report concerning any Defendant to the Commission.

XII.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that, notwithstanding the provisions of Federal Rules of Civil Procedure 26(d) and (f) and 30(a)(2)(c), and pursuant to Federal Rules of Civil Procedure 30(a), 34, and 45, the parties are granted leave, at any time after service of this Order, to:

A. Take the deposition, on three (3) calendar days' notice, of any person, whether or not a party, for the purpose of discovering the nature, location, status, and extent of the assets of the Defendants, or their affiliates or subsidiaries; the nature and location of documents reflecting the Defendants' business transactions, or the business transactions of the Defendants' affiliates or subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section shall not be counted toward the ten (10) deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A)

and 31(a)(2)(A). Service of discovery upon a party, taken pursuant to this Section, shall be sufficient if made by facsimile or by overnight delivery; and

B. Demand the production of documents, on five (5) calendar days' notice, from any person, whether or not a party, relating to the nature, status, or extent of Defendants' assets, or of their affiliates or subsidiaries; the location of documents reflecting the business transactions of Defendants, or of their affiliates or subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action, provided that twenty four (24) hours notice shall be deemed sufficient for the production of any such documents that are maintained or stored only as electronic data.

XIII.

ACCESS TO DEFENDANTS' BUSINESS PREMISES

IT IS FURTHER ORDERED that the Defendants shall allow representatives of the Commission immediate access to all premises where Defendants are conducting business or have conducted business and to all premises where Defendants' business records may be located. The purpose of this access shall be to inspect and copy any and all books, records, documents, accounts, and other property owned by or in the possession of the Defendants or their agents. The Commission shall have the discretion to determine the time, manner, and reasonable conditions of such access.

XIV.

WRIT OF ASSISTANCE BY OTHER LAW ENFORCEMENT PERSONNEL

IT IS FURTHER ORDERED that other law enforcement personnel may aid and assist the Commission in serving the Court's Order on Defendants and may further enforce this Order.

XV.

ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b), that Defendants shall appear before this Court, on the 19th floor of the Dirksen Federal Courthouse, 219 South Dearborn, Chicago, Illinois, on the 17th day of September, 2003, at 10:00 o'clock A.m., to show cause, if there is any, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint against Defendants, enjoining them from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), continuing the freeze of their assets and imposing such additional relief as may be appropriate.

XVI.

SERVICE OF PLEADINGS, MEMORANDA, AND OTHER EVIDENCE

IT IS FURTHER ORDERED that Defendants shall file any answering affidavits, pleadings, expert reports or declarations, or legal memoranda with the Court and serve the same on counsel for the Commission no later than three (3) business days prior to the preliminary injunction hearing in this matter. The Commission may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for Defendants no later than one (1) business day prior to the preliminary injunction hearing in this matter, provided that service shall be performed by personal or overnight delivery or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Central Time) on the appropriate dates listed in this Section.

XVII.

MOTION FOR ORAL ARGUMENT; WITNESS IDENTIFICATION

IT IS FURTHER ORDERED that the question of whether this Court should enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining the Defendants during the pendency of this action shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by and oral argument of the parties. Live testimony shall be heard only on further order of this Court or on motion filed with the Court and served on counsel for the other parties at least three (3) business days prior to the preliminary injunction hearing in this matter. Such motion shall set forth the name, address, and telephone number of each proposed witness, a detailed summary or affidavit revealing the substance of each proposed witness' expected testimony, and an explanation of why the taking of live testimony would be helpful to this Court. Any papers opposing a timely motion to present live testimony or to present live testimony in response to another party's timely motion to present live testimony shall be filed with this Court and served on the other parties at least two (2) business days prior to the preliminary injunction hearing in this matter, provided that service shall be performed by personal or overnight delivery or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Central Time) on the appropriate dates listed in this Section.

XVIII.

CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF

IT IS FURTHER ORDERED that, for purposes of this Order, all correspondence and pleadings to the Commission shall be addressed to:

Theresa M. McGrew, Esq.
Nicholas J. Franczyk, Esq.
Federal Trade Commission
55 E. Monroe, Suite 1860
Chicago, IL 60603
(312) 960-5634 [Phone]
(312) 960-5600 [Fax]

XIX.

DURATION OF TEMPORARY RESTRAINING ORDER

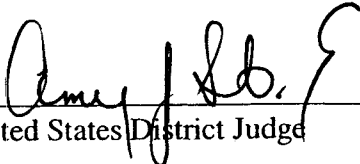
IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on September 17, 2003, at ^{10:00 A.M.}~~11:59 p.m.~~, unless, within such time, for good cause shown, the Order is extended, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time.

XX.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

IT IS SO ORDERED, this 8th day of September, 2003, at 3:00 P.m.


United States District Judge

ATTACHMENT A

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

_____)
FEDERAL TRADE COMMISSION,)
)
Plaintiff,) Civil No.
)
v.)
)
DATATECH COMMUNICATIONS, INC.,)
a corporation,)
)
9106-3925 QUEBEC, INC., a corporation,)
d/b/a DATATECH COMMUNICATIONS, INC.,)
)
9102-3127 QUEBEC, INC., a corporation,)
d/b/a I-POINT MEDIA,)
)
ROBERT BREWER, individually and as an)
owner, officer or director of the corporations,)
)
ELIAS BAKOMICHALIS, individually and as)
an owner, officer or director of the corporations,)
and,)
)
GREGORY MacNEIL, individually and as an)
owner, officer or director of the corporations,)
)
Defendants.)
_____)

CONSENT TO RELEASE OF FINANCIAL INFORMATION

I, _____, of _____
(city or province and country), do hereby direct any person, bank, savings and loan association,
credit union, depository institution, finance company, commercial lending company, credit card

processor, credit card processing entity, common carrier, customs broker, commercial mail receiving agency, mail holding and/or forwarding company, brokerage house, escrow agent, money market or mutual fund, title company, commodity trading company, or trustee, that holds, controls or maintains custody of assets, wherever located, that are owned or controlled by me, or any of the above Defendants, in whole or in part, or at which I, or any of the above Defendants, have an account of any kind upon which I am authorized to draw, and its officers, employees and agents, to disclose all information and deliver copies of all documents of every nature in its possession or control which relate to the said accounts to any attorney of the Federal Trade Commission, and to give evidence relevant thereto, in the above captioned matter, *FTC v. Datatech Communications, Inc., et al.*, now pending in the United States District Court for the Northern District of Illinois, and this shall be irrevocable authority for so doing. This direction is intended to apply to the laws of countries other than the United States of America which restrict or prohibit the disclosure of bank or other financial information without the consent of the holder of the account, and shall be construed as consent with respect thereto, and the same shall apply to any of the accounts for which I may be the relevant principal.

Dated: _____, 2003

[Signature]

[Print Name]

ATTACHMENT B

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

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Civil No.
)	
v.)	
)	
DATATECH COMMUNICATIONS, INC.,)	
a corporation,)	
)	
9106-3925 QUEBEC, INC., a corporation,)	
d/b/a DATATECH COMMUNICATIONS, INC.,)	
)	
9102-3127 QUEBEC, INC., a corporation,)	
d/b/a I-POINT MEDIA,)	
)	
ROBERT BREWER, individually and as an)	
owner, officer or director of the corporations,)	
)	
ELIAS BAKOMICHALIS, individually and as)	
an owner, officer or director of the corporations,)	
and,)	
)	
GREGORY MacNEIL, individually and as an)	
owner, officer or director of the corporations,)	
)	
Defendants.)	

FINANCIAL STATEMENT FOR INDIVIDUAL DEFENDANT



Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 433-A (Rev. 5-2001)
Catalog Number 20312N

Collection Information Statement for Wage Earners and Self-Employed Individuals

Complete all entry spaces with the most current data available.

Important! Write "N/A" (not applicable) in spaces that do not apply. We may require additional information to support "N/A" entries.

Failure to complete all entry spaces may result in rejection or significant delay in the resolution of your account.

1. Full Name(s) _____
 Street Address _____
 City _____ State _____ Zip _____
 County of Residence _____
 How long at this address? _____

1a. Home Telephone (____) _____
 Best Time To Call: _____ am _____ pm
 (Enter Hour)

2. Marital Status:
 Married Separated
 Unmarried (single, divorced, widowed)

3. Your Social Security No. (SSN) _____
 3a. Your Date of Birth (mm/dd/yyyy) _____

4. Spouse's Social Security No. _____
 4a. Spouse's Date of Birth (mm/dd/yyyy) _____

5. Own Home Rent Other (specify, i.e. share rent, live with relative) _____

6. List the dependents you can claim on your tax return: (Attach sheet if more space is needed.)

First Name	Relationship	Age	Does this person live with you?	First Name	Relationship	Age	Does this person live with you?
_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes

7. Are you or your spouse self-employed or operate a business? (Check "Yes" if either applies)

No Yes If yes, provide the following information:

7a. Name of Business _____
 7b. Street Address _____
 City _____ State _____ Zip _____

7c. Employer Identification No., if available: _____
 7d. Do you have employees? No Yes
 7e. Do you have accounts/notes receivable? No Yes
 If yes, please complete Section 8 on page 5.



ATTACHMENTS REQUIRED: Please include proof of self-employment income for the prior 3 months (e.g., invoices, commissions, sales records, income statement).

8. Your Employer _____
 Street Address _____
 City _____ State _____ Zip _____
 Work telephone no. (____) _____
 May we contact you at work? No Yes

8a. How long with this employer? _____
 8b. Occupation _____

9. Spouse's Employer _____
 Street Address _____
 City _____ State _____ Zip _____
 Work telephone no. (____) _____
 May we contact you at work? No Yes

9a. How long with this employer? _____
 9b. Occupation _____



ATTACHMENTS REQUIRED: Please provide proof of gross earnings and deductions for the past 3 months from each employer (e.g., pay stubs, earnings statements). If year-to-date information is available, send only 1 such statement as long as a minimum of 3 months is represented.

10. Do you receive income from sources other than your own business or your employer? (Check all that apply.)

Pension Social Security Other (specify, i.e. child support, alimony, rental) _____



ATTACHMENTS REQUIRED: Please provide proof of pension/social security/other income for the past 3 months from each payor, including any statements showing deductions. If year-to-date information is available, send only 1 such statement as long as a minimum of 3 months is represented.

Section 5
 11a. Checking
 11b. Checking
 12a. _____
 12b. _____
 13a. _____
 13b. _____
 13c. _____
 14a. Total Cash on Hand
 15a. Name
 15b. Name

11. CHECKING ACCOUNTS. List all checking accounts. (If you need additional space, attach a separate sheet.)

Type of Account	Full Name of Bank, Savings & Loan, Credit Union or Financial Institution	Bank Routing No.	Bank Account No.	Current Account Balance
11a. Checking	Name _____ Street Address _____ City/State/Zip _____	_____	_____	\$ _____
11b. Checking	Name _____ Street Address _____ City/State/Zip _____	_____	_____	\$ _____
11c. Total Checking Account Balances				_____

12. OTHER ACCOUNTS. List all accounts, including brokerage, savings, and money market, not listed on line 11.

Type of Account	Full Name of Bank, Savings & Loan, Credit Union or Financial Institution	Bank Routing No.	Bank Account No.	Current Account Balance
12a. _____	Name _____ Street Address _____ City/State/Zip _____	_____	_____	\$ _____
12b. _____	Name _____ Street Address _____ City/State/Zip _____	_____	_____	\$ _____
12c. Total Other Account Balances				_____



ATTACHMENTS REQUIRED: Please include your current bank statements (checking, savings, money market, and brokerage accounts) for the past three months for all accounts.

13. INVESTMENTS. List all investment assets below. Include stocks, bonds, mutual funds, stock options, certificates of deposits, and retirement assets such as IRAs, Keogh, and 401(k) plans. (If you need additional space, attach a separate sheet.)

Name of Company	Number of Shares / Units	Current Value	Loan Amount	Used as collateral on loan?
13a. _____	_____	\$ _____	\$ _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
13b. _____	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
13c. _____	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
13d. Total Investments		_____	_____	_____

14. CASH ON HAND. Include any money that you have that is not in the bank.

14a. Total Cash on Hand _____

15. AVAILABLE CREDIT. List all lines of credit, including credit cards.

Full Name of Credit Institution	Credit Limit	Amount Owed	Available Credit
15a. Name _____ Street Address _____ City/State/Zip _____	_____	_____	\$ _____
15b. Name _____ Street Address _____ City/State/Zip _____	_____	_____	\$ _____
15c. Total Credit Available			_____

Name _____ SSN _____

16. LIFE INSURANCE. Do you have life insurance with a cash value? No Yes

(Term Life insurance does not have a cash value.)

If yes:

16a. Name of Insurance Company _____

16b. Policy Number(s) _____

16c. Owner of Policy _____

16d. Current Cash Value \$ _____ 16e. Outstanding Loan Balance \$ _____

Subtract "Outstanding Loan Balance" line 16e from "Current Cash Value" line 16d = 16f [REDACTED]



ATTACHMENTS REQUIRED: Please include a statement from the life insurance companies that includes type and cash/loan value amounts. If currently borrowed against, include loan amount and date of loan.

17. OTHER INFORMATION. Respond to the following questions related to your financial condition: (Attach sheet if you need more space.)

17a. Are there any garnishments against your wages? No Yes

If yes, who is the creditor? _____ Date creditor obtained judgement _____ Amount of debt \$ _____

17b. Are there any judgments against you? No Yes

If yes, who is the creditor? _____ Date creditor obtained judgement _____ Amount of debt \$ _____

17c. Are you a party in a lawsuit? No Yes

If yes, amount of suit \$ _____ Possible completion date _____ Subject matter of suit _____

17d. Did you ever file bankruptcy? No Yes

If yes, date filed _____ Date discharged _____

17e. In the past 10 years did you transfer any assets out of your name for less than their actual value? No Yes

If yes, what asset? _____ Value of asset at time of transfer \$ _____

When was it transferred? _____ To whom was it transferred? _____

17f. Do you anticipate any increase in household income in the next two years? No Yes

If yes, why will the income increase? _____ (Attach sheet if you need more space.)

How much will it increase? \$ _____

17g. Are you a beneficiary of a trust or an estate? No Yes

If yes, name of the trust or estate _____ Anticipated amount to be received \$ _____

When will the amount be received? _____

17h. Are you a participant in a profit sharing plan? No Yes

If yes, name of plan _____ Value in plan \$ _____

18. PURCHASED AUTOMOBILES, TRUCKS AND OTHER LICENSED ASSETS. Include boats, RV's, motorcycles, trailers, etc. (If you need additional space, attach a separate sheet.)

Description (Year, Make, Model, Mileage)	Current Value	Current Loan Balance	Name of Lender	Purchase Date	Amount of Monthly Payment
18a. Year _____ Make/Model _____ Mileage _____	[REDACTED]	[REDACTED]	_____	_____	\$ _____
18b. Year _____ Make/Model _____ Mileage _____	[REDACTED]	[REDACTED]	_____	_____	\$ _____
18c. Year _____ Make/Model _____ Mileage _____	[REDACTED]	[REDACTED]	_____	_____	\$ _____

19. LEASED AUTOMOBILES, TRUCKS AND OTHER LICENSED ASSETS. Include boats, RV's, motorcycles, trailers, etc. (If you need additional space, attach a separate sheet.)

Description (Year, Make, Model)	Lease Balance	Name and Address of Lessor	Lease Date	Amount of Monthly Payment
19a. Year _____ Make/Model _____	_____	_____	_____	\$ _____
19b. Year _____ Make/Model _____	_____	_____	_____	\$ _____



ATTACHMENTS REQUIRED: Please include your current statement from lender with monthly car payment amount and current balance of the loan for each vehicle purchased or leased.

20. REAL ESTATE. List all real estate you own. (If you need additional space, attach a separate sheet.)

Street Address, City, State, Zip, and County	Date Purchased	Purchase Price	<input checked="" type="checkbox"/> Current Value	Loan Balance	Name of Lender or Lien Holder	Amount of Monthly Payment	*Date of Final Payment
20a. _____ _____ _____	_____	\$ _____	_____	_____	_____	\$ _____	_____
20b. _____ _____ _____	_____	\$ _____	_____	_____	_____	\$ _____	_____



ATTACHMENTS REQUIRED: Please include your current statement from lender with monthly payment amount and current balance for each piece of real estate owned.

21. PERSONAL ASSETS. List all Personal assets below. (If you need additional space, attach separate sheet.)
Furniture/Personal Effects includes the total current market value of your household such as furniture and appliances.
Other Personal Assets includes all artwork, jewelry, collections (coin/gun, etc.), antiques or other assets.

Description	<input checked="" type="checkbox"/> Current Value	Loan Balance	Name of Lender	Amount of Monthly Payment	*Date of Final Payment
21a. Furniture/Personal Effects	_____	_____	_____	\$ _____	_____
Other: (List below)					
21b. Artwork	_____	_____	_____	\$ _____	_____
21c. Jewelry	_____	_____	_____	_____	_____
21d. _____	_____	_____	_____	_____	_____
21e. _____	_____	_____	_____	_____	_____

22. BUSINESS ASSETS. List all business assets and encumbrances below, include Uniform Commercial Code (UCC) filings. (If you need additional space, attach a separate sheet.) *Tools used in Trade or Business* includes the basic tools or books used to conduct your business, excluding automobiles. *Other Business Assets* includes any other machinery, equipment, inventory or other assets.

Description	<input checked="" type="checkbox"/> Current Value	Loan Balance	Name of Lender	Amount of Monthly Payment	*Date of Final Payment
22a. Tools used in Trade/Business	_____	_____	_____	\$ _____	_____
Other: (List below)					
22b. Machinery	_____	_____	_____	\$ _____	_____
22c. Equipment	_____	_____	_____	_____	_____
22d. _____	_____	_____	_____	_____	_____
22e. _____	_____	_____	_____	_____	_____

23. ACCOUNTS/NOTES RECEIVABLE. List all accounts separately, including contracts awarded, but not started. (If you need additional space, attach a separate sheet.)

Description	Amount Due	Date Due	Age of Account
23a. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23b. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23c. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23d. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23e. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23f. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23g. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23h. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23i. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23j. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23k. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days
23l. Name _____ Street Address _____ City/State/Zip _____	\$ _____	_____	<input type="checkbox"/> 0 - 30 days <input type="checkbox"/> 30 - 60 days <input type="checkbox"/> 60 - 90 days <input type="checkbox"/> 90+ days

Add "Amount Due" from lines 23a through 23l = 23m [REDACTED]