

ORIGINAL

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
(Eastern Division)

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In re  
  
ESSENTIAL.COM, INC.,  
  
Debtor

Chapter 11  
Case No. 01-15339-WCH

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COMMISSION  
CLERK

**MOTION TO APPROVE PROCEDURES REGARDING DOCUMENT STORAGE  
AND FUTURE DESTRUCTION OF DOCUMENTS**

Charles A. Dale III, in his capacity as the duly-appointed plan trustee (the "Plan Trustee") of Essential.com, Inc. (the "Debtor"), hereby requests entry of an order approving certain procedures for the storage and future destruction of all books, records and electronic data of the estate (the "Motion"). In support of this Motion, the Plan Trustee respectfully represents as follows:

**Background**

DMP \_\_\_\_\_ 1. On June 29, 2001 (the "Petition Date"), the Debtor filed its voluntary petition for  
DOM \_\_\_\_\_ relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the  
CTR \_\_\_\_\_ United States Bankruptcy Court for the District of Massachusetts. On July 18, 2001, the United  
ECR \_\_\_\_\_ States Trustee appointed an Official Committee of Unsecured Creditors (the "Committee")  
BCL \_\_\_\_\_ consisting of three of the Debtor's unsecured creditors.  
DPC \_\_\_\_\_  
RCA \_\_\_\_\_

SCR \_\_\_\_\_ 2. On November 2, 2001, the Committee and the Debtor filed a Joint Plan of  
SGA \_\_\_\_\_ Liquidation (the "Plan") and Disclosure Statement in this case. The Disclosure Statement was  
SEC \_\_\_\_\_ approved by Order dated November 28, 2001, and on December 21, 2001, the Court entered an  
OTH \_\_\_\_\_ Order

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order confirming the Plan. The Effective Date under the Plan occurred on January 1, 2002.

Pursuant to the terms of the Plan, Charles A. Dale III was duly appointed the Plan Trustee.

3. In August 2001, the Debtor conducted an auction pursuant to which it sold substantially all of its assets (the "Sale"). The Sale was consummated shortly thereafter and the Debtor ceased operating.

4. Prior to the sale of substantially all of its assets, the Debtor was engaged in the business of providing utility services, including local and long-distance telephone services and limited electrical utility services, to subscribers. Subscribers could then manage their utility services via online internet access at a central website maintained by the Debtor. Underlying telecommunications services were provided, through the Debtor, by various incumbent provider companies, such as Verizon Communications, Inc., Qwest Communications Corporation and others.

5. Subsequent to the Sale, the Debtor and the Plan Trustee jointly proposed and obtained confirmation of the Plan. Pursuant to the terms of the Plan, the Plan Trustee has continued to liquidate remaining assets, resolve litigation and claims, and has made two interim distributions to the holders of allowed claims.

6. All of the Debtor's books, records and related property of the estate has been stored at the offices of the accountants to the Plan Trustee, Verdolino & Lowey, P.C. ("V&L").

#### **Relief Requested**

7. The Plan Trustee has reviewed various options for document storage and eventual destruction of the documents subsequent to closing of this chapter 11 case. Accordingly, the Plan Trustee seeks an Order of this Court approving the procedures for storage and eventual destruction of the estate's paper and electronic records as set forth herein.

8. In his business judgment, the Plan Trustee has outlined the following procedures for the storage and eventual destruction of the estate's paper and electronic documents. By this Motion, the Plan Trustee requests this Court to approve the following document retention and destruction procedures:

- a. All of the books and records of the estate (the "Paper Documents") have been transferred to V&L's offices at Pine Brook Office Park, 124 Washington Street, Foxborough, Massachusetts 02035.
- b. All non-paper Documents will be referred to as "Electronic Documents" and shall include, but are not limited to, all information maintained on the estate's computer network, such as all applications and data, which includes accounting and payroll records, as well as customer information, employee information, employee work product on any computers and/or servers, and certain emails.
- c. An inventory of all Paper Documents and Electronic Documents has been created and is attached hereto as Exhibit A.
- d. In the sole discretion of the Plan Trustee, the Paper Documents and Electronic Documents and related equipment may be destroyed or otherwise disposed of by V&L, the Plan Trustee or designated agents, assigns and/or successors thereto.

9. The Plan Trustee seeks an Order of this Court approving the foregoing procedures for document storage and eventual destruction. In addition, the Plan Trustee seeks an Order of this Court approving the immediate payment of all costs associated with the document storage and destruction from the estate.

10. The Plan Trustee has received an estimate from V&L of approximately \$4,000 for the destruction of the Paper Documents. Specifically, the Plan Trustee requests an order granting him authority to make any and all necessary ongoing payments for the maintenance and eventual destruction of the Paper Documents.

WHEREFORE, the Trust Representative requests this Court to (i) approve the procedures provided herein for the storage and future destruction of the Paper Documents and Electronic

Documents, (ii) allow the Trust Representative to immediately pay as needed all costs associated with the storage and destruction of the Paper Documents and Electronic Documents as provided herein, and (iii) grant such other and further relief as is just and necessary.

Respectfully submitted,

CHARLES A. DALE III,  
Plan Trustee of Essential.com, Inc.,

By his attorneys,

/s/ Alex F. Mattera

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Dated: November 18, 2005