

## Response to Documentary Information Disclosure Policy Request

To: Denise Subramaniam

Date: 8 December 2010

Re: Request No. 20101108-1

---

Thank you for your Request for Information, dated 8 December 2010 (the "Request"), which staff forwarded through the Internet Corporation for Assigned Names and Numbers' (ICANN) Documentary Information Disclosure Policy (DIDP). For reference, a copy of the Request is attached to the email forwarding this Response.

### **Response**

#### **Insurance and ICANN Compliance Work**

Though the DIDP is limited to requests for documentary information already in existence within ICANN, ICANN attempts to be as responsive as possible to the entirety of your request. If you require assistance in obtaining copies of the documents identified within this response, please respond to [didp@icann.org](mailto:didp@icann.org) to identify the assistance required.

ICANN is providing you with a copy of the Certificate of Insurance for 4Domains in force at the time of the termination of its RAA, along with a notice of cancellation of the insurance on 22 October 2010.

Documents describing the affirmative efforts that ICANN's Contractual Compliance Department undertakes to assure ICANN's nearly 900 contracted parties meet ongoing compliance with all contractual provisions are already publicly available. Information regarding ICANN's Contractual Compliance Department efforts are described on the Contractual Compliance Program website, at <http://www.icann.org/en/compliance/>, which includes Semi-Annual Reports describing work in auditing Registrar compliance with various provisions of the RAA. The Reports at <http://www.icann.org/en/compliance/reports/contractual-compliance-report-27feb09-en.pdf> and <http://www.icann.org/en/compliance/reports/contractual-compliance-audit-report-29jul08-en.pdf> describe specific work done regarding verification of insurance.

#### **Resellers**

ICANN does not have a list of resellers for 4Domains.

#### **Complaints from Third Parties**

Your request for list of complaints that ICANN has received regarding 4Domains cannot be met, as the information requested falls under a Defined Condition of Nondisclosure set forth in the DIDP:

Personnel, medical, contractual, remuneration, and similar records relating to an individual's personal information, when the disclosure of such information would or

likely would constitute an invasion of personal privacy, as well as proceedings of internal appeal mechanisms and investigations.

Persons submitting complaints through ICANN's complaint intake processes do not agree, as a condition of submitting that complaint, that their identities will be made public or shared as a result of the submission of the complaint. ICANN is therefore unable to, and in some cases prohibited under relevant privacy laws, from releasing those complaints, to the extent they exist.

### **Registrant Protections**

ICANN does not have the ability to restore domain names to domain name registrants. The ICANN community has created a series of policies (publicly available) to protect domain name registrants from inadvertent loss of domain names. Those policies include the Expired Domain Name Deletion Policy, at <http://www.icann.org/registrars/eddp.htm> and the Restored Names Accuracy Policy, at <http://www.icann.org/registrars/rnap.htm>. The ICANN community is currently undertaking work towards the creation of a post-expiration domain name recovery policy recommendation. That work is ongoing, and can be followed at <https://st.icann.org/post-expiration-dn-recovery-wg/index.cgi>. There is also an Inter-Registrar Transfer Policy, at <http://www.icann.org/en/transfers/policy-en.htm>, which provides ICANN the right to initiate a bulk transfer of domain names under a registrar's accreditation at the time of termination of an RAA. ICANN does not have the authority to order or initiate transfers of individual domain names.

In the past couple of years, ICANN has heightened the protections available in the event of Registrar failure or termination, as happened with 4Domains. ICANN maintains a Registrar Data Escrow program, with a Registrar Data Escrow Agreement pursuant to which ICANN has access to registration data for the purpose of facilitating a bulk transfer of all names under a Registrar's accreditation. Information on the Data Escrow Program is available at <http://icann.org/en/announcements/announcement-2-09nov07.htm>. ICANN also created a De-Accredited Registrar Transfer Procedure, documenting the process through which this is to occur. The DeAccredited Registrar Transfer Procedure is at <http://www.icann.org/en/processes/registrars/de-accredited-registrar-transition-procedure-01oct08.pdf>. Prior to the creation of the data escrow program, registrants were at a much higher risk of loss of domain names upon a registrar failure.

In addition to the policies and processes in place to provide protections against the unintended losses of domain name registrations, ICANN undertook additional actions to try to protect 4Domains' customers as a whole from experiencing the losses you've described. Upon learning of the bankruptcy petition relating to 4Domains, ICANN attempted to reach out to bankruptcy counsel in the matter as well as the Trustee, to stress the need for immediate and swift attention to this matter in order to protect registrants such as your company. Attached please find the letter ICANN sent to the Chapter 7 Trustee in this matter – a letter that despite repeated follow up, ICANN could not achieve anything more than acknowledgment of receipt.

ICANN encourages you to engage in ICANN processes, including the current public comment period regarding proposed changes to enhance ICANN's Registrar Accreditation Evaluation Process. The Comment Forum, open until 21 January 2011, can be accessed at <http://www.icann.org/en/public-comment/#registrar-accredit-eval>. If you need assistance

in submitting your comment to that or any other ICANN forum, please contact the responsible staff member identified within the forum.

**About DIDP**

ICANN's DIDP is limited to requests for information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, which is contained within the ICANN Accountability & Transparency: Framework and Principles please see <http://www.icann.org/transparency/acct-trans-frameworks-principles-10jan08.pdf>.

We hope this information is helpful. If you have any further inquiries, please forward them to [didp@icann.org](mailto:didp@icann.org).