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FEDERAL TRADE COMMISSION

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
Oakland Division

11 FEDERAL TRADE COMMISSION,

12 Plaintiff,

13 v.

14 NATIONAL AWARDS SERVICE
15 ADVISORY, LLC, a limited liability
16 company, also d/b/a Prize Information
Bureau and Award Notification
17 Bureau,

18 CENTRAL PROCESSING OF
19 NEVADA, LLC, a limited liability
20 company, also d/b/a Publishers
Information Bureau and Consumer
Reporting Services,

21 INTERNATIONAL AWARD
22 ADVISORS, INC., a corporation,

23 SPECTRUM CAGING SERVICE,
INC., a corporation,

24 PRIZE REGISTRY BUREAU, INC., a
25 corporation,

26 CONSOLIDATED DATA BUREAU,
27 INC., a corporation, also d/b/a Data
Distribution Bureau, Inc.,

Case No. CV 10-5418 PJH

**FIRST AMENDED COMPLAINT
FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE
RELIEF**

1 REGISTERED DATA ANALYTICS,
2 INC., a corporation,

3 LLOYD BRANNIGAN EXCHANGE,
4 INC., a corporation,

5 GEOVANNI SORINO, individually
6 and as an officer of NATIONAL
7 AWARDS SERVICE ADVISORY,
8 LLC,

9 JORGE A. CASTRO, individually and
10 as an officer of CENTRAL
11 PROCESSING OF NEVADA, LLC,

12 TULLY A. LOVISA, individually and
13 as an officer of INTERNATIONAL
14 AWARD ADVISORS, INC.,
15 SPECTRUM CAGING SERVICE,
16 INC., CONSOLIDATED DATA
17 BUREAU, INC., PRIZE REGISTRY
18 BUREAU, INC., and REGISTERED
19 DATA ANALYTICS, INC., and

20 STEVEN MCCLENAHAN,
21 individually and as an officer of PRIZE
22 REGISTRY BUREAU, INC.,
23 CONSOLIDATED DATA BUREAU,
24 INC., REGISTERED DATA
25 ANALYTICS, INC., and LLOYD
26 BRANNIGAN EXCHANGE, INC.,

27 Defendants, and

28 LISA LOVISA,
Relief Defendant.

Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in connection with the offer of prize promotions.

1 2. The FTC brings this action pursuant to the Federal Debt Collection
2 Procedure Act (“FDCPA”), 28 U.S.C. § 3001 *et seq.*, and the Court’s ancillary
3 enforcement jurisdiction, to avoid certain fraudulent transfers, and to satisfy the
4 debt that would result from a judgment in favor of the FTC against Defendants
5 International Award Advisors, Inc., Spectrum Caging Service, Inc., and Tully A.
6 Lovisa.

7 **JURISDICTION AND VENUE**

8 3. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
9 §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

10 4. Venue is proper in this district under 28 U.S.C. § 1391 (b) and (c), and
11 15 U.S.C. § 53(b).

12 **INTRADISTRICT ASSIGNMENT**

13 5. Defendants have transacted business with consumers who reside
14 throughout the San Francisco Bay Area.

15 **PLAINTIFF**

16 6. The FTC is an independent agency of the United States Government
17 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC
18 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or
19 affecting commerce.

20 7. The FTC is authorized to initiate federal district court proceedings, by
21 its own attorneys, to enjoin violations of the FTC Act and to secure such equitable
22 relief as may be appropriate in each case, including rescission or reformation of
23 contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten
24 monies. 15 U.S.C. § 53(b).

25 **DEFENDANTS**

26 8. Defendant National Awards Service Advisory, LLC, also doing
27 business as Prize Information Bureau and Award Notification Bureau, is a Nevada
28 limited liability company with mailing addresses at P.O. Box 98699 and P.O. Box

1 98776, in Las Vegas, Nevada 89193. National Awards Service Advisory, LLC,
2 transacts or has transacted business in this district and throughout the United
3 States.

4 9. Defendant Central Processing of Nevada, LLC, also doing business as
5 Publishers Information Bureau and Consumer Reporting Services, is a Nevada
6 limited liability company with a mailing address at P.O. Box 98988 in Las Vegas,
7 Nevada 89193. Central Processing of Nevada, LLC, transacts or has transacted
8 business in this district and throughout the United States.

9 10. Defendant International Award Advisors, Inc., is a Delaware
10 corporation with a mailing address at P.O. Box 8050, Huntington Station, New
11 York 11746. International Award Advisors, Inc., transacts or has transacted
12 business in this district and throughout the United States.

13 11. Defendant Spectrum Caging Service, Inc., is a New York corporation
14 with its principal place of business at 18 Unqua Road, Massapequa, New York
15 11758. Spectrum Caging Service, Inc., transacts or has transacted business in this
16 district and throughout the United States.

17 12. Defendant Prize Registry Bureau, Inc., is a Nevada corporation with a
18 mailing address at P.O. Box 98989 in Las Vegas, Nevada 89193. Prize Registry
19 Bureau, Inc., transacts or has transacted business in this district and throughout the
20 United States.

21 13. Defendant Consolidated Data Bureau, Inc., also doing business as
22 Data Distribution Bureau, Inc., is a Nevada corporation with a mailing address at
23 P.O. Box 98985 in Las Vegas, Nevada 89193. Consolidated Data Bureau, Inc.,
24 transacts or has transacted business in this district and throughout the United
25 States.

26 14. Defendant Registered Data Analytics, Inc., is a Nevada corporation
27 with its principal place of business at 3401 Sirius Avenue, Suite 5, Las Vegas,
28 Nevada 89102. Registered Data Analytics, Inc., transacts or has transacted

1 business in this district and throughout the United States.

2 15. Defendant Lloyd Brannigan Exchange, Inc., is a Nevada corporation
3 with its principal place of business at 3401 Sirius Avenue, Suite 5, Las Vegas,
4 Nevada 89102. Lloyd Brannigan Exchange, Inc., transacts or has transacted
5 business in this district and throughout the United States.

6 16. Defendant Geovanni Sorino is the president of National Awards
7 Service Advisory, LLC. At times material to this Complaint, acting alone or in
8 concert with others, he has formulated, directed, controlled, had the authority to
9 control, or participated in the acts and practices of National Awards Service
10 Advisory, LLC, including the acts and practices set forth in this Complaint. In
11 connection with the matters alleged herein, Geovanni Sorino transacts or has
12 transacted business in this district and throughout the United States.

13 17. Defendant Jorge A. Castro is the president of Central Processing of
14 Nevada, LLC. At times material to this Complaint, acting alone or in concert with
15 others, he has formulated, directed, controlled, had the authority to control, or
16 participated in the acts and practices of Central Processing of Nevada, LLC,
17 including the acts and practices set forth in this Complaint. In connection with the
18 matters alleged herein, Jorge Castro transacts or has transacted business in this
19 district and throughout the United States.

20 18. Defendant Tully A. Lovisa is the president of International Award
21 Advisors, Inc., and Spectrum Caging Service, Inc., and an officer of Consolidated
22 Data Bureau, Inc., Prize Registry Bureau, Inc., and Registered Data Analytics, Inc.
23 At times material to this Complaint, acting alone or in concert with others, he has
24 formulated, directed, controlled, had the authority to control, or participated in the
25 acts and practices set forth in this Complaint. In connection with the matters
26 alleged herein, Tully Lovisa transacts or has transacted business in this district and
27 throughout the United States.

28 19. Defendant Steven McClenahan is the president of Prize Registry

1 Bureau, Inc., Consolidated Data Bureau, Inc., Registered Data Analytics, Inc., and
2 Lloyd Brannigan Exchange, Inc. At times material to this Complaint, acting alone
3 or in concert with others, he has formulated, directed, controlled, had the authority
4 to control, or participated in the acts and practices set forth in this Complaint. In
5 connection with the matters alleged herein, Steven McClenahan transacts or has
6 transacted business in this district and throughout the United States.

7 20. Relief Defendant Lisa Lovisa is the spouse of Defendant Tully Lovisa.
8 Individually or jointly with others, she has received funds that Defendants
9 fraudulently transferred to her and that can be traced directly to Defendants'
10 unlawful acts or practices alleged below. Lisa Lovisa has no legitimate claim to
11 those funds and other assets. After the FTC filed its original Complaint and this
12 Court entered a Temporary Restraining Order with asset freeze against the
13 Defendants, Lisa Lovisa received transfers of approximately \$170,000 from
14 Defendant Spectrum Caging Service, Inc., and Defendant International Award
15 Advisors, Inc. Relief Defendant Lisa Lovisa resides in New York.

16 21. Defendants International Award Advisors, Inc., Spectrum Caging
17 Service, Inc., Prize Registry Bureau, Inc., Consolidated Data Bureau, Inc.,
18 Registered Data Analytics, Inc., and Lloyd Brannigan Exchange, Inc. (collectively,
19 "Common Enterprise Defendants") have operated as a common enterprise while
20 engaging in the unlawful acts and practices alleged below. The Common
21 Enterprise Defendants have conducted the business practices described below
22 through an interrelated network of companies that have common managers,
23 business functions, agents, shared office space, and have commingled funds.
24 Because these Common Enterprise Defendants have operated as a common
25 enterprise, each of them is jointly and severally liable for the acts and practices
26 alleged below. Defendants Tully A. Lovisa and Steven McClenahan have
27 formulated, directed, controlled, had the authority to control, or participated in the
28 acts and practices of the Common Enterprise Defendants that constitute the

1 common enterprise.

2 **COMMERCE**

3 22. At all times relevant to this Complaint, Defendants have maintained a
4 substantial course of trade in or affecting commerce, as “commerce” is defined in
5 Section 4 of the FTC Act, 15 U.S.C. § 44.

6 **DEFENDANTS’ BUSINESS PRACTICES**

7 23. At various times during the past two years, and continuing today,
8 Defendants have sent personalized mailers to hundreds of thousands of consumers
9 throughout the United States. These mailers represent that the consumer to whom
10 the mailing is addressed has won a multi-million dollar cash prize.

11 24. Defendants conduct business through an interrelated network of
12 companies that have neighboring post office boxes, nearly identical marketing
13 material, and shared vendors. They operate under multiple business names and
14 have distributed dozens of versions of their mailers.

15 25. Defendants’ mailers represent that the recipient must send a \$20.00
16 “processing fee” to Defendants in order to receive his or her cash prize.

17 26. To create the impression that consumers will receive a substantial
18 cash prize, Defendants’ personalized mailers contain, among other things, the
19 following or similar statements:

- 20 a. “It is Hereby Confirmed that [Jane Doe] has been Declared
21 Fully Eligible to receive full accounting directives of a cash and
22 awards distribution: total amount in aggregate scheduled for
23 payout \$2,975,488.00.” (Exhibit F);
- 24 b. NOTICE OF INTENT TO DELIVER . . . Current Aggregate
25 Total Pending Payment: \$3,275,063.00” (Exhibit K);
- 26 c. [John Doe], all documentation has been compiled and
27 completed for you to reference for release of the over
28 \$3,275,064.00.” (Exhibit M);

1 d. “Upon resolution adopted by the Verification Office Advisory
2 Board, notice is hereby given to the individual named and set
3 forth above that \$3,175,536.00 is now due to be paid upon
4 selection and your identity, [John Doe], has been positively
5 identified.” (Exhibit O);

6 e. “This Declaration, prepared exclusively for [Jane Doe] by
7 P.I.B. North America, describes your guaranteed entitlements to
8 an aggregate CASH/PRIZE pool totaling over \$3,235,046.00 to
9 be distributed by corporate sponsors.” (Exhibit W); and

10 f. “NOTICE OF PAYMENTS PENDING . . . You are hereby
11 informed that \$3,175,536.00 is now due to be paid, [John Doe],
12 upon selection and that your identity has been positively
13 confirmed.” (Exhibit Z).

14 27. To bolster the impression that the consumer has won a prize, some of
15 Defendants’ mailers congratulate the recipient on his or her winnings and include
16 the following or similar statements:

17 a. “Congratulations [Jane Doe]” (Exhibit F);

18 b. “Congratulations on this incredible good fortune.” (Exhibit M);

19 c. “It gives me great pleasure to notify you of this Exclusive
20 Entitlement which has been granted to you by my
21 organization.” (Exhibit V);

22 d. “Our most sincere salutations are in order for you. Your
23 identification as recipient for reported cash award entitlements
24 totalling over \$2,500,000.00 has been confirmed! We are so
25 pleased at having the honor of informing you of this wonderful
26 news.” (Exhibit Y); and

27 e. “[John], again I am delighted to be able to bring this good news
28 to you!” (Exhibit Y).

1 28. Defendants' mailers further reinforce that the consumer has won a
2 prize by stating that the recipient has been specially selected to receive the mailer,
3 and include the following or similar language:

4 a. "[John Doe], due to your name being identified out of more than
5 267,843 candidates, we have safeguarded your delivery by
6 assigning the Prize Information Number 20105167310 to you
7 and you alone." (Exhibit M);

8 b. "Congratulations [John Doe], you have been positively
9 identified for this \$3,275,226.00 enumeration report and prize
10 information release." (Exhibit N);

11 c. "Transaction File No. 50360993365 has been established in
12 your name in connection with this matter, and must be referred
13 to in all correspondence with this office." (Exhibit O);

14 d. Selection of your name has been carried out in strict conformity
15 with rules and methods stipulated as applicable to all potential
16 winners of a major sweepstakes cash amount." (Exhibit U);

17 e. [John], this information is real and actual; based on results from
18 your recent participation in a National Promotion in which your
19 subsequent identification is now affirmed and announced."
20 (Exhibit Y); and

21 f. At 4:00 pm, on February 26, 2010 our records indicated that
22 [John Doe], known holder of identification No. 50228663092,
23 as filed in our main office, is 100% positively appointed to
24 receive immediate delivery of prize information data providing
25 access to monies in excess of \$2,500,000.00." (Exhibit Y).

26 29. Defendants bolster the impression that consumers have won a prize by
27 stating that consumers have a limited amount of time within which to claim the
28 cash prize, using the following or similar statements:

- 1 a. “[John or Jane], all documentation has been compiled and
2 completed for you to reference for release of the over
3 \$3,276,450.00! We cannot hold this for more than 10 (ten)
4 days. You must sign and return the Prize Report Claim Form
5 below at once.” (Exhibits A-E);
- 6 b. “Act immediately. Sign your Prize Report Claim Form below
7 and return it in the envelope provided, with the \$20.00 transfer
8 fee by cash, check, or money order (made payable to [PIB or
9 CRS]). ENVELOPE MUST BE POSTMARKED BY
10 MIDNIGHT OF DEADLINE DATE OR YOUR CLAIM WILL
11 BE VOIDED FOR PROCESSING.” (Exhibits A-E);
- 12 c. “Return the entire form to our offices, along with the requisite
13 processing fee of \$20 in the enclosed priority envelope.
14 IMPORTANT: responses received after November 23, 2009
15 will forfeit your status.” (Exhibit F);
- 16 d. “Please note that sponsors have established strict rules and
17 procedures, including deadline dates that cannot be extended
18 for any reason. Therefore, your reply must be postmarked by
19 Midnight, October 26, 2009. Should you fail to respond by that
20 date, this entitlement shall be withdrawn and considered
21 entirely null and void.” (Exhibit G);
- 22 e. “I must stress the importance of the stated deadline. Sponsor
23 stipulations prohibit deadline extensions, and your Voucher
24 expires at midnight of the date shown. ALL VALID CLAIMS
25 MUST BE POSTMARKED BEFORE THE DEADLINE.”
26 (Exhibit S);
- 27 f. “However, time is of the essence, [John], and I urge you to act
28 upon this matter promptly. Stringent payment deadlines are

1 currently in place, and must be met. You should therefore
2 return the completed Response Form to this office no later than
3 October 27, 2009. Failure to take action will result in all
4 payment opportunities to be forfeited. If this should occur, an
5 alternative payee will be identified and entitled to the described
6 win opportunities contingent upon full compliance, per
7 directives on reverse, upon selection.” (Exhibit V); and

- 8 g. “This is a Time-Sensitive Transaction – STIPULATED
9 DEADLINES MUST BE MET. Transaction File No.
10 50341503758 can only be held open in your name [John Doe],
11 until May 18, 2010.” (Exhibit Z).

12 30. Defendants’ mailers assure consumers that the prize is legitimate,
13 using the following or similar statements and depictions:

- 14 a. “THIS IS NEITHER A SWEEPSTAKES ENTRY OR
15 CONTEST SOLICITATION.” (Exhibit Z);
- 16 b. “THE FOLLOWING INFORMATION IS REAL AND
17 ACTUAL. You have been definitely qualified to immediately
18 receive \$2,931,470.00 in win opportunity Data Documents
19 scheduled for dispatch to you, upon receipt of the signed
20 Registration Form below.” (Exhibit X);
- 21 c. Bar codes for “internal tracking” (Exhibits A-E, L, CC); and
- 22 d. Stamps, often in red ink, with the following official-sounding
23 terms:
- 24 i. “FILED” (Exhibits A-E, AA);
- 25 ii. “APPROVED” (Exhibits F, O, P, T, V, X, BB);
- 26 iii. “DEADLINES ENFORCED” (Exhibit H);
- 27 iv. “GUARANTEED” (Exhibit I);
- 28 v. “CERTIFIED” (Exhibit J);

- 1 vi. “REGISTERED” (Exhibits K, Q);
- 2 vii. “VERIFIED” (Exhibit M);
- 3 viii. “CONFIDENTIAL” (Exhibit N);
- 4 ix. “CONFIRMED” (Exhibit O);
- 5 x. “AUTHORIZED RUSH PROCESSING” (Exhibit P);
- 6 xi. “SIGN & RETURN” (Exhibit S);
- 7 xii. “URGENT” (Exhibit U);
- 8 xiii. “ADVANCED” (Exhibit V);
- 9 xiv. “COPY” (Exhibit CC); and
- 10 xv. “PRIORITY” (Exhibit II).

11 31. Defendants’ mailers often include a return envelope addressed to one
12 of Defendants’ post office boxes (Exhibit PP).

13 32. Many of Defendants’ mailers prominently tout that Defendants are
14 affiliated with a government agency, including, but not limited to, using the
15 following or a similar heading:

- 16 a. “State of California Commissioners of Registration”
17 (Exhibit A);
- 18 b. “State of Illinois Commissioners of Registration” (Exhibit B);
- 19 c. “State of Florida Commissioners of Registration” (Exhibit C);
- 20 d. “Commissioners of Registration” (Exhibits D-E);
- 21 e. “FOR THE STATE OF: Illinois” (Exhibit F); and
- 22 f. “GEORGIA TRANSFER NOTICE DOCUMENT” (Exhibit G).

23 33. To further the impression that Defendants are affiliated with a
24 government agency, Defendants’ mailers contain language, symbols, artwork and
25 other features similar to those used by government agencies, including, but not
26 limited to:

- 27 a. Statements that the notice is “official,” by use of the following
28 or similar statements:

- 1 i. "OFFICIAL AGENCY RELEASE" (Exhibit A-E);
- 2 ii. "Official Issuing Agency" (Exhibit F);
- 3 iii. "OFFICIAL USE ONLY" (Exhibit G);
- 4 iv. "OFFICIAL DOCUMENT" (Exhibit H);
- 5 v. "OFFICIAL NOTICE OF TRANSFER DOCUMENT"
- 6 (Exhibit I);
- 7 vi. "OFFICIAL PRIZE OFFICE" (Exhibit J);
- 8 vii. "THIS IS AN OFFICIAL NOTICE" (Exhibit K);
- 9 viii. "Official Record" (Exhibit L);
- 10 ix. "[T]his is your official notification" (Exhibit M);
- 11 x. "Official Declaration and Authorization Form" (Exhibit
- 12 N);
- 13 xi. "Official & Approved Notification" (Exhibit O);
- 14 xii. "OFFICIAL CONFIRMATION" (Exhibit Q);
- 15 xiii. "OFFICE OF THE PRESIDENT OFFICIAL
- 16 NOTIFICATION" (Exhibit R);
- 17 xiv. "OFFICIAL AUTHORIZATION" (Exhibit S);
- 18 xv. "OFFICIAL NOTICE" (Exhibit DD);
- 19 xvi. "OFFICIAL RIGHTS AND PRIVILEGES" (Exhibit
- 20 GG); and
- 21 xvii. "OFFICIAL FUNDS ADVISORY" (Exhibit HH);
- 22 b. Watermarks containing a circle of stars, the inscription "In God
- 23 We Trust," a bald eagle, or other official-looking design
- 24 (Exhibits F, H, I, K, M, T, BB, GG);
- 25 c. Certificates (Exhibits H, T, X, AA, GG);
- 26 d. Vouchers and checks (Exhibits F, S, CC);
- 27 e. Forms titled "Official Acceptance Form," "Official Declaration
- 28 and Authorization Form," "Acquisition Response Form,"

1 “Report Claim Registration Form,” “Administrative Request
2 Processing Form,” “Confirmation Form,” “Eligibility Claim
3 Form” or “REPORT CLAIM FORM EZ-626” (Exhibits J, N,
4 V, X, CC, FF, II, JJ);

- 5 f. Docket numbers (Exhibit G);
- 6 g. Official-looking seals depicting eagles, stars, cities, or majestic
7 figures (Exhibits A-G, I, K-M, X, Z, AA-BB, DD, FF, LL); and
- 8 h. Official-looking envelopes (Exhibits KK-NN).

9 34. Defendants’ mailers often contain language in small print stating in
10 vague terms that they are a reporting service that provides information on various
11 sweepstakes (Exhibit OO). This language does not adequately inform the
12 consumer that he or she has not won a prize.

13 35. Many consumers who receive Defendants’ mailers believe they have
14 won a substantial prize and mail \$20 to the Defendants.

15 36. Consumers who pay the \$20 fee to Defendants do not receive the
16 promised prize. Instead, consumers receive nothing or merely written information
17 about how to enter sweepstakes (Exhibit QQ).

18 37. Many consumers receive additional mailers from Defendants that
19 solicit further money. Some mailers suggest that the consumer is in the final stages
20 of claiming his or her prize money and contain the following or similar statements:

- 21 a. “ Stage 1: PASSED, [John Doe] selected for \$3,333,256
22 Disbursement Entitlement. Allocated Priority Claim Number
23 20110402646.
24 Stage 2: PASSED, Official Claim Documents were issued
25 for [John Doe]. These are non-transferable and are for the use
26 of [John Doe] alone to place claim on the over \$3,333,256.00
27 Disbursement Entitlement.
28 Stage 3: PENDING, [John Doe] Final Stage Access READY

1 for over \$3,333,256.00. Disbursement Entitlement. Response
2 requested before April 28, 2010.” (Exhibit Q);

3 b. “[John], Act now. You have successfully passed two stages,
4 with only the third - and final - stage standing between you and
5 access to the \$3,333,256.00 Disbursement Entitlement.”
6 (Exhibit R); and

7 c. “At the Third and Final Stage, the over \$2,175,536.00 will be
8 dispatched. You need to respond now.” (Exhibit EE).

9 38. Defendants have collected millions of dollars from consumers.

10 **DEFENDANT TULLY LOVISA’S TRANSFER OF FUNDS TO**

11 **RELIEF DEFENDANT LISA LOVISA**

12 39. On November 30, 2010, the FTC filed its original complaint in this
13 matter against twelve Defendants, including Tully Lovisa, International Award
14 Advisors, Inc., and Spectrum Caging Service, Inc., alleging that the Defendants,
15 through their sweepstakes promotion companies, deceived hundreds of thousands
16 of consumers and collected millions of dollars from victims. The FTC’s original
17 complaint sought, among other things, such “relief as the Court finds necessary to
18 redress injury to consumers resulting from Defendants’ violations of the FTC Act,
19 including but not limited to, rescission or reformation of contracts, restitution, the
20 refund of monies paid, and the disgorgement of ill-gotten monies.” The FTC also
21 filed an *ex parte* Application for a Temporary Restraining Order and Order to
22 Show Cause Why a Preliminary Injunction Should Not Issue (“Order to Show
23 Cause”).

24 40. On December 1, 2010, this Court issued a Temporary Restraining
25 Order With Asset Freeze and Other Equitable Relief (“TRO”) that, among other
26 things, temporarily froze all assets owned, controlled by, or otherwise held for the
27 benefit of Mr. Lovisa and his corporations.

28 41. On December 2, 2010, the FTC served the original complaint, TRO,

1 Order to Show Cause, and related pleadings on Defendants International Award
2 Advisors, Inc., Spectrum Caging Services, Inc., and Tully Lovisa.

3 42. On December 2, 2010, Defendant Tully Lovisa caused to be
4 transferred \$70,000 from a bank account of Defendant International Award
5 Advisors, Inc., to Relief Defendant Lisa Lovisa.

6 43. On December 2, 2010, Defendant Tully Lovisa caused to be
7 transferred \$100,000 from a bank account of Defendant Spectrum Caging Service,
8 Inc., to Relief Defendant Lisa Lovisa.

9 44. Relief Defendant Lisa Lovisa provided nothing in return for the
10 transfers described in Paragraphs 42 and 43.

11 45. The funds described in Paragraphs 42 and 43:

- 12 a. can be traced directly to Defendants' unlawful acts or practices
- 13 alleged below, and
- 14 b. were transferred after Defendant Tully Lovisa learned of this
- 15 lawsuit.

16 **VIOLATIONS OF THE FTC ACT**

17 46. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or
18 deceptive acts or practices in or affecting commerce.”

19 47. Misrepresentations or deceptive omissions of material fact constitute
20 deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

21 **COUNT I**

22 48. Through the means described in Paragraphs 23 through 38,
23 Defendants have represented, directly or indirectly, expressly or by implication,
24 that consumers who pay Defendants a specified fee will receive a substantial cash
25 prize.

26 49. In truth and in fact, consumers who pay Defendants the specified fee
27 do not receive a substantial cash prize.

28 50. Therefore, the making of the representation as set forth in Paragraph

1 48 of this Complaint constitutes a deceptive act or practice, in or affecting
2 commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

3 **COUNT II**

4 51. Through the means described in Paragraphs 23 through 38, Defendants
5 have represented, directly or indirectly, expressly or by implication, that they are
6 affiliated with an official government agency.

7 52. In truth and in fact, Defendants are not affiliated with an official
8 government agency.

9 53. Therefore, the making of the representation as set forth in Paragraph 51
10 of this Complaint constitutes a deceptive act or practice, in or affecting commerce
11 in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

12 **DISGORGEMENT OF RELIEF DEFENDANT'S ILL-GOTTEN GAINS**

13 **COUNT III**

14 54. Relief Defendant, Lisa Lovisa, has received, directly or indirectly,
15 funds and other assets from Defendants that are traceable to funds obtained from
16 Defendants' customers through the unlawful acts or practices described herein.

17 55. Relief Defendant is not a bona fide purchaser with legal and equitable
18 title to Defendants' customers' funds and other assets, and Relief Defendant will be
19 unjustly enriched if she is not required to disgorge the funds or the value of the
20 benefit she received as a result of Defendants' unlawful acts or practices.

21 56. By reason of the foregoing, Relief Defendant holds funds and assets in
22 constructive trust for the benefit of Defendants' customers.

23 **VIOLATIONS OF THE FEDERAL DEBT COLLECTION**

24 **PROCEDURE ACT**

25 57. On December 2, 2010, Tully Lovisa, International Award Advisors,
26 Inc., and Spectrum Caging Service, Inc. ("Fraudulent Transfer Defendants")
27 transferred or caused to be transferred \$170,000 to Relief Defendant.

28 58. The transfers described in Paragraphs 42-45 are fraudulent and can be

1 voided pursuant to the Federal Debt Collection Procedure Act (“FDCPA”).

2 **COUNT IV**

3 **AVOIDANCE UNDER SECTION 3304(b)(1)(A) of the FDCPA**

4 59. Section 3304(b)(1)(A) of the FDCPA provides in pertinent part that “a
5 transfer or obligation incurred by a debtor is fraudulent as to a debt to the United
6 States, whether such debt arises before or after the transfer is made or the obligation
7 is incurred, if the debtor makes the transfer or incurs the obligation - (A) with actual
8 intent to hinder, delay, or defraud a creditor”

9 60. The Fraudulent Transfer Defendants transferred or caused to be
10 transferred funds to Relief Defendant Lisa Lovisa “with actual intent to hinder,
11 delay, or defraud a creditor.” Therefore, those transfers are fraudulent pursuant to
12 Section 3304(b)(1)(A) of the FDCPA as to a claim to the FTC, and therefore, to the
13 United States.

14 **COUNT V**

15 **AVOIDANCE UNDER SECTION 3304(b)(1)(B) of the FDCPA**

16 61. Section 3304(b)(1)(B) of the FDCPA provides in pertinent part that a
17 transfer made by a debtor is fraudulent as to a debt to the United States, whether
18 such debt arises before or after the transfer is made, if the debtor makes the transfer
19 “(B) without receiving a reasonably equivalent value in exchange for the transfer or
20 obligation if the debtor . . . (ii) intended to incur, or believed or reasonably should
21 have believed that he would incur, debts beyond his ability to pay as they became
22 due.”

23 62. The Fraudulent Transfer Defendants did not receive “a reasonably
24 equivalent value in exchange for” the transfers described in Paragraphs 42-45.

25 63. At the time of the transfers described in Paragraphs 42-45, the
26 Fraudulent Transfer Defendants reasonably should have believed that they would
27 incur debts beyond their ability to pay as they became due.

28 64. Therefore, the transfers described in Paragraphs 42-45 are fraudulent

1 transfers pursuant to Section 3304(b)(1)(B) of the FDCPA as to a claim to the FTC,
2 and therefore, to the United States.

3 **CONSUMER INJURY**

4 65. Consumers have suffered and will continue to suffer substantial injury
5 as a result of Defendants' violations of the FTC Act. In addition, Defendants have
6 been unjustly enriched as a result of their unlawful acts or practices. Absent
7 injunctive relief by this Court, Defendants are likely to continue to injure
8 consumers, reap unjust enrichment, and harm the public interest.

9 **THIS COURT'S POWER TO GRANT RELIEF**

10 66. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court
11 to grant injunctive and such other relief as the Court may deem appropriate to halt
12 and redress violations of any provision of law enforced by the FTC. The Court, in
13 the exercise of its equitable jurisdiction, may award ancillary relief, including
14 rescission or reformation of contracts, restitution, the refund of monies paid, and the
15 disgorgement of ill-gotten monies, to prevent and remedy any violation of any
16 provision of law enforced by the FTC.

17 **PRAYER FOR RELIEF**

18 Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15
19 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

20 A. Award Plaintiff such preliminary injunctive and ancillary relief as may
21 be necessary to avert the likelihood of consumer injury during the pendency of this
22 action and to preserve the possibility of effective final relief, including but not
23 limited to temporary and preliminary injunctions and an order freezing assets;

24 B. Enter a permanent injunction to prevent future violations of the FTC
25 Act by Defendants;

26 C. Award such relief as the Court finds necessary to redress injury to
27 consumers resulting from Defendants' violations of the FTC Act, including but not
28 limited to, rescission or reformation of contracts, restitution, the refund of monies

1 paid, and the disgorgement of ill-gotten monies;

2 D. Award such relief against Relief Defendant as the Court finds
3 necessary to secure funds for final relief, including an order requiring Relief
4 Defendant to disgorge all funds and assets, or the value of the benefit she received
5 from the funds and assets; and

6 E. Award Plaintiff the costs of bringing this action, as well as such other
7 and additional relief as the Court may determine to be just and proper.

8
9
10 Dated: July 12, 2011

Respectfully Submitted,

11 WILLARD K. TOM
12 General Counsel

13 */s/ Sarah Schroeder*

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