

**X200041**

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

**In the Matter of**

**TRAFFIC JAM EVENTS, LLC, a limited  
liability company, and**

**DAVID J. JEANSONNE II,  
individually and as an officer of  
TRAFFIC JAM EVENTS, LLC.**

**DOCKET NO. 9395**

**COMPLAINT COUNSEL’S MOTION TO DETERMINE THE SUFFICIENCY OF  
RESPONDENTS’ RESPONSES TO REQUESTS FOR ADMISSION**

Pursuant to Administrative Rules 3.38, Complaint Counsel respectfully request the Court determine that Respondents’ responses to Complaint Counsel’s requests for admission are deficient and order that the statements therein be admitted pursuant to Rule 3.38(b)(2). As described below, Respondents have failed to answer certain requests for admission without a valid objection and have responded to other requests with evasive denials.

Complaint Counsel has conferred with Respondents’ counsel and requested amended responses. The conference has narrowed the dispute insofar as Respondents provided amended responses that resolved disputes regarding certain requests. With respect to the requests identified in this motion, however, Respondents have either provided amended responses that fail to cure the deficiencies or failed to amend their initial, inadequate responses. *See* Tankersley Decl. ¶¶ 7, 8; Exhibits D, E.

**BACKGROUND**

The FTC’s Complaint against Traffic Jam Events, LLC (“TJE”), and its president, David J. Jeansonne II (“Jeansonne”) (collectively, “Respondents”) alleges three counts arising from

deceptive advertising to promote auto dealership offers. Count I alleges deceptive advertising regarding COVID-19 government stimulus benefits; Count II alleges that Respondents deceptively advertised that consumers had won a specific prize that could be collected by visiting a particular auto dealership; Count III alleges that Respondents violated the FTC Act by failing to make certain disclosures required under the Truth in Lending Act (“TILA”) and Regulation Z, 12 C.F.R. § 226.24(d). Complaint ¶¶ 14-23. Respondents admit that Respondent Jeansonne is the owner, managing member and president of Respondent TJE, and that they “create advertising, offer direct mail marketing services, and staff tent sales events to automotive dealerships.” Complaint ¶¶ 2, 3, Answer ¶¶ 2, 3.

Complaint Counsel served requests for admissions pursuant to Rule 3.32 on June 11 and June 25, 2021. Respondents served responses to the first set on June 21, 2021, and, following a conference between counsel regarding the sufficiency of the requests, provided amended responses to Requests 1-32 on July 8, 2021. Tankersley Decl., Exhibit A. Respondents served responses to the second set of requests, Nos. 33-61, on July 6, 2021. *Id.*, Exhibit B. Complaint Counsel challenged the sufficiency of the July 6 responses and the July 8 amended responses. *Id.* ¶ 8, Exhibit E. Respondents failed to respond.

### **LEGAL STANDARD**

Rule 3.38 allows the Court to review the sufficiency of a party’s responses to requests for admission. Rule 3.32 mirrors Fed. R. Civ. P. 36 and both rules are designed to allow parties to narrow issues for trial. To that end, the Rule provides that any matter for which an admission is sought is admitted unless the responding party makes a timely response. 16 C.F.R. § 3.32(b). The Rule further provides that an answer to a request for admission shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny.

*Id.* Moreover, a denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party “shall specify so much of it as is true and qualify or deny the remainder.” *Id.* However, the responding party “may not qualify its admission or denial in such a way as to recast the request and admit or deny the recast request.” *In re of Sterling Drug Inc.*, 1976 FTC LEXIS 272 at \*3 (June 16, 1976). “[T]he answer must go to the essential truth of the proposition stated, and any reservations due to slight inaccuracies or for any other reason should be so stated as qualifications to a general admission.” *In re Gen. Motors Corp.*, 1977 FTC LEXIS 293 at \*6-7 (Jan. 28, 1977); *cf. Marchand v. Mercy Med. Ctr.*, 22 F.3d 933, 938 (9th Cir. 1994) (under Fed. R. Civ. P. 36, parties “should admit to the fullest extent possible, and explain in detail why other portions of a request may not be admitted.”).

If the court determines that a party has failed to comply with these obligations, it may order either that an amended answer be served or that the matter be admitted. An answer that fails to comply with Rule 3.32(b) by improperly objecting or giving an evasive denial may be considered a failure to respond and, consequently, an admission. *In re Bristol-Myers Co.*, 1976 FTC LEXIS 28 (Dec. 9, 1976); *Sterling Drug Inc.*, 1976 FTC LEXIS 272 at \*7-12 (ordering specified requests admitted and amended answers for others); *accord Asea, Inc. v. S. Pac. Transportation Co.*, 669 F.2d 1242, 1245 (9th Cir. 1981) (under Fed. R. Civ. P. 36, an evasive denial or a response that does not set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter may have same effect as failure to respond at all); *AmeriPride Servs., Inc. v. Valley Indus. Servs., Inc.*, 2011 WL 1321873, at \*3 (E.D. Cal., Apr. 1, 2011) (if a response does not comply with the literal requirements of Rule 36(a), the court may deem the matter admitted).

## ARGUMENT

### **I. Requests 1, 2, 3, 4, 33, 34, 35 and 36: Respondents' Objections to Responding to Statements Regarding Platinum Plus are Without Merit.**

Respondents object to seven requests (Nos. 1-4, 33-35) because a company named in the requests, Platinum Plus Printing, LLC, is not a party. This objection that the activities of Platinum Plus are irrelevant has been rejected by both this Court and the Commission.<sup>1</sup> The Commission agreed with this Court's findings and conclusions, including that Platinum Plus had connections to the Respondents and played a "role in the distribution of the allegedly deceptive advertising." Commission Order Directing Counsel to Enforce Nonparty Subpoena, at 3 (June 9, 2021). Consequently, these Requests concerning Platinum Plus's relationship to Respondents and role in advertising are within the scope of discovery. *See id.* Respondents continued assertion of this objection reflects a bad faith effort to thwart narrowing the issues.

In amended responses to Requests to Requests 3 and 4, Respondents do not admit or deny Requests 3 and 4, but, instead, refer Complaint Counsel to a deposition. These answers are improper; the responding party must answer a Request for Admission and may not evade responding by citing other discovery. *See In re Bristol-Myers Co.*, 1976 FTC LEXIS 273 at \*3 (June 16, 1976) ("An answer incorporating references to other documents or papers previously filed or produced in this proceeding is improper.").

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<sup>1</sup> *See* Order Granting Motion for Certification to the Commission of Request for Court Enforcement of Nonparty Subpoena at 5 (May 13, 2021) (rejecting relevance objection because "[t]he record indicates that PPP had a role in distributing the alleged deceptive advertisements referenced in the Complaint" and Respondent Jeansonne is a manager of Platinum Plus); Order Granting Complaint Counsel's Motion to Compel Production of Documents and Answers to Interrogatories, at 4 (Dec. 16, 2020) (ordering production of documents regarding relationship between TJE and Platinum Plus Printing); *see also* Exhibit 1 to Respondents' Memorandum in Opposition to Motion to Extend Complaint Counsel's Deadline in the Scheduling Order, Resp. to Inter. No. 2 (acknowledging Platinum Plus Printing is used to provide printing and related services).

Request 36 is also related to Platinum Plus. It requests that Respondents admit that TJE has created and disseminated print advertisements that use trademarked text registered to Platinum Plus to describe an electronic digital display device affixed to advertisements.<sup>2</sup> Respondents deny this request, stating: “[a]ny advertisements are disseminated by the automotive dealers identified in the advertisement.” The response not fairly meet the substance of the request because it fails to admit or deny that Respondent TJE created the advertisements. *See Gen. Motors Corp.*, 1977 FTC LEXIS 293, at \*6-7 (proper response must “specify so much as it is true and qualify or deny the remainder.”); *Apex Oil Co. v. Belcher Co. of New York*, 855 F.2d 1009, 1019 (2d Cir. 1988) (outright denial is improper where part of request is true); *Pecover v. Elec. Arts, Inc.*, 2012 WL 12921363, at \*4 (N.D. Cal. Mar. 23, 2012) (party cannot evade responding to compound statement but must admit to the extent possible). Moreover, even with respect to “dissemination” the response is evasive because dissemination by dealers is not inconsistent with the truth that TJE also engaged in dissemination of the ads.

Respondents’ relevance and burden objections to Request 39 are also without merit. This request concerns advertisements at issue in this proceeding and Complaint Counsel is not required to identify individual advertisements to secure a response to this straightforward request. “The response ‘burdensome’ is an improper reply to a relevant request to admit.” *Gen. Motors*, 1977 FTC LEXIS 293 at \*27.

## **II. Requests 11, 15, 16, 18, 19, 27, 28, and 53-59, 61: Respondent Jeansonne’s Denial of Requests Admitted by Respondent TJE Fail to Respond to the Requests.**

Complaint Counsel has requested that Respondents acknowledge that certain advertisements were created by Respondent TJE and sent to residents. Respondents have

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<sup>2</sup> A example of the trademarked “Combination Box™” appears on Exhibit C to Respondents’ Answer.

answered by admitting the statements “as to Traffic Jam” while denying the truth of the same statement as to Respondent Jeansonne. Resp. to Requests 11, 53-59, 61. In amended responses regarding advertisements that Respondent TJE admits creating, Respondents add that the denial as to Respondent Jeansonne is “*to the extent that this request can be construed to mean that Individual Respondent committed this act.*” Amended Resp. to Requests 15, 16, 18, 19, 27 and 28 (italics and emphasis in original).

These inconsistent responses are improper. Because Respondent TJE acknowledges that the statements are true, Respondent Jeansonne – who has access to the same information as TJE – is bound to likewise admit the truth of the requests. Moreover, the statement that Respondent Jeansonne did not commit the act is gratuitous because Requests 15, 16, 18, 19, 27 and 28 do not attribute an action to Respondent Jeansonne. A responding party may not evade admitting a request “by responding to a question which was not asked.” *Gen. Motors Corp.*, 1977 FTC LEXIS 293 at \*11.

### **III. Request 39: Respondents’ Denial of a Request Not Presented is Not Responsive**

Respondents’ denial of Request 39 is similarly predicated on responding to a question that was not asked. Request 39 asks whether TJE reviewed advertisements for compliance with TILA regulations, and Respondents deny on the basis that the request “implies that Traffic Jam had a legal duty to do so.” Request 39 does not ask Respondents to admit to a legal duty -- it only states that TJE did not conduct the review described in the Request. Moreover, because Request 39 relates to the TILA violations alleged in Count III of the Complaint, it is neither irrelevant nor unduly burdensome.

#### **IV. Requests 43, 44: Respondents' Failure to Admit, Deny or Object is a Failure to Respond**

Because Respondents did not object, deny, admit or profess inability to admit or deny Requests 43 and 44, they admitted these Requests by failing to provide a compliant response. Respondents' statement that the requests are "confusing and appears to contain an error" is not accompanied by any explanation or objection.<sup>3</sup>

#### **V. Requests 45, 49: Respondents' Denial Because "a recipient" Was Entitled to a Prize Does Not Meet the Substance of the Request**

Requests 45 and 49 ask Respondents to admit that recipients of their sweepstakes mailers bearing the code "74937" were not entitled to claim the \$2,500 displayed next to this number. Respondents deny these requests, stating "*a recipient* was entitled to claim" the prize." (italics added). This response deliberately avoids the substance of the request, which is that multiple consumers received identical ads bearing the "74937" code; even if one recipient could claim the prize – other "recipients" of these mailers could not. Under Respondents' view of the facts, Request 45, 49 are true. At best, Respondents' contention regarding "a recipient" supports a qualification stating that *one recipient* at each event was entitled to claim the prize. *See AmeriPride Servs., Inc. v. Valley Indus. Servs., Inc.*, 2011 WL 1321873, at \*3 (E.D. Cal., Apr. 1, 2011) ("When the purpose and significance of a request are reasonably clear, courts do not permit denials based on an overly-technical reading of the request."); *EEOC v. Baltimore City*, 2011 WL 5375044, at \*2 (D. Md., Nov. 7, 2011) (A response that is based on the phrasing of a request, and not its substance, is improper because it does not comply with "the Rule's instruction to "specify the part admitted and qualify or deny the rest.").

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<sup>3</sup> The ad for the Madison Tent Event referenced in Requests 43 and 44 is Exhibit C to Respondents' Answer and appended as Exhibit C to the Tankersley Decl.

**VI. Request 50: Lack of Personal Knowledge Is Not A Basis for Objecting to a Request.**

Request 50 asks Respondents to acknowledge an image is the Great Seal of the United States – an image that is relevant because of its resemblance to an image of a seal with an eagle that appears in Respondents’ ads. See Complaint ¶ 9.B. Respondents refused to admit or deny because they “do not have personal knowledge.” Lack of personal knowledge, however, is never a valid basis for objecting to a request for admission because Rule 3.32(b) requires reasonable investigation. *In re Bristol-Myers Co.*, 1976 FTC LEXIS 273 at \*4. Minimal investigation would confirm the truth of this Request. See <https://www.govinfo.gov/features/great-seal>.

**CONCLUSION**

Pursuant to Rule 3.38(b)(2), the Court should enter an order that the statements in Complaint Counsel’s requests for admissions 1, 2, 3, 4, 33, 34, 35 and 36; 11, 15, 16, 18, 19, 27, 28, and 53-59, 61; and 39, 43, 44, 45, 49 and 50, be admitted.

Respectfully submitted,

July 23, 2021

by: /s/ Michael Tankersley  
Michael Tankersley  
Federal Trade Commission  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 23, 2021, I caused the foregoing Motion to Determine the Sufficiency of Respondents' Responses to Requests for Admission, supporting declaration and separate meet and confer statement to be served via the FTC's E-filing system and electronic mail to:

April Tabor  
Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580

The Honorable Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

Counsel for Respondents, Traffic Jam Events, LLC and David J. Jeansonne II:

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July 23, 2021

by: /s/ Michael Tankersley  
Federal Trade Commission  
Bureau of Consumer Protection

**UNITED STATES OF AMERICA**  
**BEFORE THE FEDERAL TRADE COMMISSION**  
**OFFICE OF ADMINISTRATIVE LAW JUDGES**

**In the Matter of**

**TRAFFIC JAM EVENTS, LLC, a limited  
liability company, and**

**DAVID J. JEANSONNE II,  
individually and as an officer of  
TRAFFIC JAM EVENTS, LLC.**

**DOCKET NO. 9395**

**SEPARATE MEET AND CONFER STATEMENT**

Consistent with this Court's Scheduling Order, Complaint Counsel, Michael E. Tankersley, conferred with counsel, Etienne Balart for Respondents Traffic Jam Events, LLC regarding Respondents' responses to Complaint Counsel's First and Second Set of Requests for Admission. Respondents served responses to the First Set of Requests for Admission on June 21, 2021. Complaint Counsel Michael E. Tankersley sent a letter requesting that Respondents cure deficient responses on June 28, 2021, and discussed the responses with Respondents' counsel Etienne Balart by telephone on July 5, 2021. Respondents served responses to the Complaint Counsel's Second Set of Requests for Admission, Nos. 33-61, on July 6, 2021, and amended responses to Complaint Counsel's First Set of Requests (Requests 1-32) on July 8, 2021.

On July 16, Complaint Counsel Michael E. Tankersley sent a letter challenging the sufficiency of the responses served on July 6 and July 8, and requested revised responses. The July 6 responses to the Second Set of Requests for Admissions reiterate objections and refusals to admit Respondents' advanced in initial responses to the First Set of Requests for Admissions, and the July 8 Amended Responses similarly reiterate Respondents' objections to responding to requests naming Platinum Plus Printing and denying on behalf of the Individual Respondent requests admitted as true by Respondent TJE. *See* Tankersley Decl., Exhibit E at 1-2. Respondents failed to respond to the July 16 letter and request for revised answers to the requests

for admission. On July 22, 2021, Respondent’s Counsel filed a Memorandum in Opposition to a motion unrelated to the requests for admission in which he describes Respondents’ answers to the First and Second Set of Admissions as “complete and proper.” Respondents’ Memorandum in Opposition to Motion to Extend Complaint Counsel’s Deadline in the Scheduling Order at 4.

Respectfully submitted,

July 23, 2021

By: /s/ Michael Tankersley  
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Washington, D.C. 20580  
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**X200041**

**UNITED STATES OF AMERICA  
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**DOCKET NO. 9395**

**[PROPOSED] ORDER GRANTING COMPLAINT COUNSEL'S MOTION TO  
DETERMINE THE SUFFICIENCY OF  
RESPONDENTS' RESPONSES TO REQUESTS FOR ADMISSION**

Upon consideration of Complaint Counsel's Motion to Determine the Sufficiency of Respondents' Responses to Requests for Admission:

IT IS HEREBY ORDERED that Complaint Counsel's Motion is GRANTED.

IT IS FURTHER ORDERED that the following Requests for Admission in Complaint Counsel's First and Second Set of Requests for Admissions to Respondents are ordered to be admitted:

- Requests 1, 2, 3, 4, 33, 34, 35 and 36;
- Requests 11, 15, 16, 18, 19, 27, 28, and 53-59, 61;
- Request 39, 43, 44, 45, 49 and 50.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Chief Administrative Law Judge

Date:

**X200041**

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

**DOCKET NO. 9395**

**In the Matter of**

**TRAFFIC JAM EVENTS, LLC, a limited  
liability company, and**

**DAVID J. JEANSONNE II,  
individually and as an officer of  
TRAFFIC JAM EVENTS, LLC.**

**DECLARATION OF MICHAEL E. TANKERSLEY**

1. I have knowledge of the facts set forth in this declaration, and if called as a witness, I could and would testify competently under oath to such facts. This declaration is submitted in support of Complaint Counsel's Motion to Determine the Sufficiency of Respondents' Responses to Requests for Admission.

2. I am an attorney at the Federal Trade Commission and Complaint Counsel in this proceeding.

3. Complaint Counsel served requests for admissions pursuant to Rule 3.32 on June 11 (Requests 1-32) and June 25, 2021 (Requests 33-61).

4. **Exhibit A** is a copy of Respondents' Amended Responses to Complaint Counsel's First Set of Requests for Admissions (Requests 1-32), served July 8, 2021.

5. **Exhibit B** is a copy of Respondents' Responses to Complaint Counsel's Second Set of Requests for Admissions (Requests 33-61), served on July 6, 2021.

6. **Exhibit C** is a copy of Exhibit C to Respondents' Answer in this proceeding. The Exhibit contains an advertisement for the Madison Tent Event referenced in Complaint Counsel's Requests for Admission, Nos. 27-30, 40-45.

7. On June 28, 2021, I sent a letter to Respondents' Counsel, Etienne Balart, requesting revised responses to cure deficiencies in Respondents' initial responses to Complaint Counsel's First Set of Requests for Admission. A copy of this letter is attached as **Exhibit D**. On July 5, I had a telephone conference with Respondents' Counsel, Etienne Balart, during which we discussed the responses and Respondents agreed to revise certain responses.

8. The amended responses (Exhibit A) I received in response to the June 28, 2021 letter and July 5 conference still contained deficiencies. Respondents' responses to the Second Set of Requests for Admission (Exhibit B), reflected some of the same deficiencies and additional defects. On July 16, 2021, I sent a letter to Respondents' Counsel, Etienne Balart, challenging responses in the Amended Responses to the First Set of Requests for Admission and the Responses to the Second Set of Requests for Admission. A copy of this letter is attached as **Exhibit E**. I received no response to this request for revised answers to the identified requests for admission.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on July 23, 2021

By: /s/ Michael E. Tankersley

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Federal Trade Commission  
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COMPLAINT COUNSEL'S MOTION  
TO DETERMINE THE SUFFICIENCY OF  
RESPONDENTS' RESPONSES TO REQUESTS FOR ADMISSION

**EXHIBIT A**

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

**In the Matter of**

**TRAFFIC JAM EVENTS, LLC, a limited liability company**

**and**

**DAVID J. JEANSONNE II, individually and as an officer of TRAFFIC JAM EVENTS, LLC.**

**DOCKET NO. 9395**

**RESPONDENTS' AMENDED  
RESPONSES TO REQUESTS FOR ADMISSIONS**

**NOW INTO COURT**, through undersigned counsel, comes Traffic Jam Events, LLC (“Traffic Jam”) and David J. Jeansonne II (collectively, “Respondents”), who offer the amended responses (amendments in *bold italics*) to the Requests for Admissions as follows:

**General Objections**

Respondent Traffic Jam generally objects to these Requests to the extent that Complainant seeks information from Traffic Jam concerning the business activities of another company, and further seeks information answers to questions involving the operations of that company with entities other than Traffic Jam. The responses herein, to the extent they relate to Platinum Plus, are not given on behalf of Traffic Jam nor are they given by Individual Respondent in his capacity as an officer of Traffic Jam.

Respondents jointly object to these Requests to the extent that they seek conclusions of law rather than fact.

**REQUEST FOR ADMISSION NO. 1:**

Platinum Plus Printing, LLC is in the business of creating advertising and providing



direct mail marketing services on behalf of automotive dealerships to promote automotive sales.

**ANSWER TO REQUEST FOR ADMISSION NO. 1:**

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

**REQUEST FOR ADMISSION NO. 2:**

Platinum Plus Printing, LLC generated advertisements on behalf of, at the request of, and for the benefit of automotive dealerships.

**ANSWER TO REQUEST FOR ADMISSION NO. 2:**

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

**REQUEST FOR ADMISSION NO. 3:**

During 2020 and 2021, David Jeansonne had authority to control the acts and practices of Traffic Jam Events, LLC and Platinum Plus Printing, LLC in generating advertisements on behalf of, at the request of, and for the benefit of automotive dealerships.

**ANSWER TO REQUEST FOR ADMISSION NO. 3:**

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any

matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request as it relates to Platinum Plus.

With respect to Respondents as it relates to Traffic Jam, Respondents object to the extent that this Request calls for a legal conclusion. Individual Respondent, as the President of Traffic Jam, does have general authority over the affairs of the company.

*Subject to these objections, David Jeansonne was, at all times noted, the president of Traffic Jam and his authority over the company was as testified to in his deposition.*

**REQUEST FOR ADMISSION NO. 4:**

During 2020 and 2021, David Jeansonne had knowledge of the acts and practices of Traffic Jam Events, LLC and Platinum Plus Printing, LLC, in generating advertisements on behalf of, at the request of, and for the benefit of automotive dealerships.

**ANSWER TO REQUEST FOR ADMISSION NO. 4:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request as it relates to Platinum Plus.

With respect to Respondents as it relates to Traffic Jam, Respondents object to the extent that this Request calls for a legal conclusion and is so broad and ambiguous as to be incapable of

formulating a response. Complaint counsel has failed to specify what acts and practices are subject to the Request and Respondents therefore can offer no meaningful response.

*Subject to these objections, David Jeansonne was, at all times noted, the president of Traffic Jam and his authority over the company was as testified to in his deposition, but he did not have knowledge of every “act or practice” of the company, as more fully set forth and explained in his deposition testimony. Respondents have made reasonable inquiry and that the information known to or readily obtainable by the party, based on the breadth of the request, is insufficient to enable it to admit or deny.*

**REQUEST FOR ADMISSION NO. 5:**

At the domain www.trafficjamevents.com, Respondents advertise that they offer automotive dealerships “industry-leading direct-response mail and staffed-event campaigns for dealerships across the U.S.A.”

**ANSWER TO REQUEST FOR ADMISSION NO. 5:**

DENIED as to Individual Respondent; ADMITTED as to Respondent Traffic Jam.

**REQUEST FOR ADMISSION NO. 6:**

Respondents have generated advertisements on behalf of and at the request of and for the benefit of automotive dealerships located in multiple states, including Alabama, Florida, Louisiana, Indiana, Kansas, New Hampshire, Tennessee, Texas, and Washington.

**ANSWER TO REQUEST FOR ADMISSION NO. 6:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not

limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

*Subject to these objections, and with the qualification agreed by counsel for FTC, this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is, for the past 6 years (July 2015 to July 2021) ADMITTED as to Alabama, Florida, Louisiana, New Hampshire, Tennessee, Texas, and Washington, and DENIED as to Indiana and Kansas.*

**REQUEST FOR ADMISSION NO. 7:**

In the course of generating advertisements to promote automotive sales, Respondents have employed the services of printers located in California, Florida and Virginia.

**ANSWER TO REQUEST FOR ADMISSION NO. 7:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

*Subject to these objections, and with the qualification agreed by counsel for FTC, this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is, for the past 6 years (July 2015 to July 2021) ADMITTED as to California and Florida and DENIED as to*

*Virginia.*

**REQUEST FOR ADMISSION NO. 8:**

Respondents cause or have caused advertisements that they have created on behalf of automotive dealerships to promote automotive sales to be distributed through the United States Postal Service to residents of multiple states, including Alabama, Florida, Louisiana, Indiana, Kansas, New Hampshire, Tennessee, Texas, and Washington.

**ANSWER TO REQUEST FOR ADMISSION NO. 8:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, the Request is DENIED. No advertisements created by Respondent Traffic Jam were ever distributed on behalf of Traffic Jam; rather, they were distributed, as noted in the Request, on behalf of the automotive dealerships as advertisements for the identified dealerships. Respondent Traffic Jam does not advertise for or on behalf of itself, and therefore engages in no “commerce” as that term is defined in 15 USC 44.

***And further subject to these objections, it is the actual dealers – on whose behalf the advertisements are created by Traffic Jam – who cause or have caused the advertisements to be distributed in the U.S. Mail.***

**REQUEST FOR ADMISSION NO. 9:**

Respondents were responsible for generating Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action.

**ANSWER TO REQUEST FOR ADMISSION NO. 9:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 10:**

David Jeansonne directly participated in creating Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action.

**ANSWER TO REQUEST FOR ADMISSION NO. 10:**

Respondents object to this Request as the term “directly participated” is not defined and is subject to a variety of possible meanings. Subject to proper clarification, Respondents will respond accordingly.

**REQUEST FOR ADMISSION NO. 11:**

Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action were mailed to residents through the United States Postal Service.

**ANSWER TO REQUEST FOR ADMISSION NO. 11:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 12:**

Exhibits A, B, and C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II filed in this action promoted automotive

sales that are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

**ANSWER TO REQUEST FOR ADMISSION NO. 12:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

**REQUEST FOR ADMISSION NO. 13:**

Respondents have generated advertisements to promote automotive sales that are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.<sup>1</sup>

**ANSWER TO REQUEST FOR ADMISSION NO. 13:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

**REQUEST FOR ADMISSION NO. 14:**

Respondents have generated advertisements to promote credit offers that are in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.<sup>1</sup>

**ANSWER TO REQUEST FOR ADMISSION NO. 14:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

**REQUEST FOR ADMISSION NO. 15:**

The Florida Stimulus Mailer was sent to residents in Florida in March 2020.

**ANSWER TO REQUEST FOR ADMISSION NO. 15:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

**REQUEST FOR ADMISSION NO. 16:**

The Florida Stimulus Mailer promoted an automotive sales event in Bushnell, Florida from March 27, 2020 to April 5, 2020, for or on behalf of New Wave Auto Sales.

**ANSWER TO REQUEST FOR ADMISSION NO. 16:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

**REQUEST FOR ADMISSION NO. 17:**

Respondents mailed or caused to be mailed approximately 35,000 pieces of the Florida Stimulus Mailer were distributed.

**ANSWER TO REQUEST FOR ADMISSION NO. 17:**

This Request is confusing and appears to contain an error. Subject to further clarification,



Respondents will provide a response.

*Subject to these objections, and with the qualification agreed by counsel for FTC placing a period after “Mailer,” this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is ADMITTED.*

**REQUEST FOR ADMISSION NO. 18:**

The Alabama Stimulus Mailer was sent to residents in Alabama in early April 2020.

**ANSWER TO REQUEST FOR ADMISSION NO. 18:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

**REQUEST FOR ADMISSION NO. 19:**

The Alabama Stimulus Mailer promoted an automotive sales event in Dothan, Alabama for or on behalf of Dothan Chrysler Dodge Jeep Ram FIAT.

**ANSWER TO REQUEST FOR ADMISSION NO. 19:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

**REQUEST FOR ADMISSION NO. 20:**

Respondents mailed or caused to be mail approximately 10,000 pieces of the Alabama Stimulus Mailer were distributed.

**ANSWER TO REQUEST FOR ADMISSION NO. 20:**

This Request is confusing and appears to contain an error. Subject to further clarification, Respondents will provide a response.

*Subject to these objections, and with the qualification agreed by counsel for FTC placing a period after “Mailer,” this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is ADMITTED.*

**REQUEST FOR ADMISSION NO. 21:**

Respondents were responsible for generating the Alabama Stimulus Mailer.

**ANSWER TO REQUEST FOR ADMISSION NO. 21:**

ADMITTED that Traffic Jam generated the mailer; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 22:**

The Florida Stimulus Mailer includes a watermark that resembles the image of the eagle that appears on the Great Seal of the United States.

**ANSWER TO REQUEST FOR ADMISSION NO. 22:**

DENIED. The watermark is clearly not the Great Seal of the United States to any reasonable person who knows what the Great Seal of the United States is; moreover, an image resembling an eagle is not an image that can only resemble the Great Seal.

**REQUEST FOR ADMISSION NO. 23:**

The Florida Stimulus Mailer includes an image of a check from the “STIMULUS RELIEF PROGRAM.”

**ANSWER TO REQUEST FOR ADMISSION NO. 23:**

DENIED. The “check” contains a clear and conspicuous notice that it is, in fact, not a check, and contains other obvious signs to any reasonable consumer that it is not, in fact, a “check”, including but not limited to not containing the name of a bank or financial institution, not having an account or routing number, not having a payee, and not having a written amount. To any reasonable consumer, there was no “check” contained in the Mailer; rather, it was clearly

part of an advertisement.

**REQUEST FOR ADMISSION NO. 24:**

The automotive sales event promoted by the Florida Stimulus Mailer was not affiliated or otherwise associated with, or approved by, an entity or program named “STIMULUS RELIEF PROGRAM.”

**ANSWER TO REQUEST FOR ADMISSION NO. 24:**

Respondents cannot admit nor deny this Request, and therefore object. The automotive dealer was, in fact, running its own “stimulus relief program.” Given that this Mailer was sent prior to any official government stimulus program, and that the U.S. Government does not have a patent on or other exclusive right to the use of the word “stimulus,” this fact has no relevance to the claims at issue, unless the FTC takes the position, which it seems to assert, that only the U.S. Government may organize and use the term “stimulus relief program.”

*Subject to these objections, the request is DENIED.*

**REQUEST FOR ADMISSION NO. 25:**

Respondents designed the Florida Stimulus Mailer to give the impression that the mailing was affiliated or otherwise associated with, or approved by, the government.

**ANSWER TO REQUEST FOR ADMISSION NO. 25:**

DENIED. There is no impressions from the Mailer, taken as a whole, was affiliated or otherwise associated with, or approved by, the government.

**REQUEST FOR ADMISSION NO. 26:**

The automotive sales event promoted by the Florida Stimulus Mailer was not affiliated or otherwise associated with, or approved by, the government.

**ANSWER TO REQUEST FOR ADMISSION NO. 26:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED as the Mailer creates no such impression, especially given the fact that as was widely reported, there was no government program regarding “stimulus” in effect at the time.

*Subject to these objections, the U.S. Government did not authorize, approve nor supervise the Florida Stimulus Mailer automotive sale, and no reasonable consumer would have formed that opinion from any mailer that is the subject of this action.*

**REQUEST FOR ADMISSION NO. 27:**

The Madison Tent Event Prize Notification Mailer was sent to residents in Alabama in May 2020.

**ANSWER TO REQUEST FOR ADMISSION NO. 27:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that this request can be construed to mean that Individual Respondent committed this act.*

**REQUEST FOR ADMISSION NO. 28:**

The Madison Tent Event Prize Notification Mailer promoted an automotive sales event in Madison, Alabama from May 28 to June 3, 2020, on behalf of Landers McLarty Nissan.

**ANSWER TO REQUEST FOR ADMISSION NO. 28:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent *to the extent that*

*this request can be construed to mean that Individual Respondent committed this act.*

**REQUEST FOR ADMISSION NO. 29:**

Respondents selected the code that appears on the Madison Tent Event Prize Notification Mailer under the heading “OFFICIAL WINNING CODE” to give recipients the impression that they had won a specific prize that could be collected by visiting a specific dealership.

**ANSWER TO REQUEST FOR ADMISSION NO. 29:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

**REQUEST FOR ADMISSION NO. 30:**

Respondents selected the code that appears on the Madison Tent Event Prize Notification Mailer in the black box with the title “COMBINATION BOX” to give recipients the impression that they had won a specific prize that could be collected by visiting a specific dealership.

**ANSWER TO REQUEST FOR ADMISSION NO. 30:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Complainant seeks to establish FTC jurisdiction, a legal determination, through an admission of fact, which is improper. To the extent a response is required, it is DENIED.

**REQUEST FOR ADMISSION NO. 31:**

In 2020 and 2021, Respondents created and disseminated advertisements to aid, promote, or assist closed-end credit transactions subject to the TILA and 15 U.S.C. § 1664 (TILA § 144), as amended.

**ANSWER TO REQUEST FOR ADMISSION NO. 31:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. ~~Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent.~~ Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

*Subject to these objections, this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is ADMITTED in part regarding the creation of the advertisements – at the request of and approval by the dealers and who also “create” the ads, and DENIED as to “disseminated” as it is the actual dealers who “disseminate” the advertisements. Moreover, Respondents deny that Regulation Z applies to Respondents pursuant to 12 CFR § 1026.1(c).*

**REQUEST FOR ADMISSION NO. 32:**

In 2020 and 2021, Respondents created and disseminated advertisements for close-end credit that stated the amount of a down payment for purchase of an automobile on credit but did not conspicuously state all of the following terms: the terms of repayment, and the “annual percentage rate” using that term.

**ANSWER TO REQUEST FOR ADMISSION NO. 32:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome, and is vague in that it conflates the business of Traffic Jam with Individual Respondent. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

***Subject to these objections, this request is DENIED as to David Jeansonne. As to Traffic Jam, the request is ADMITTED in part regarding the creation of the advertisements – at the request of and approval by the dealers and who also “create” the ads, and DENIED as to “disseminated” as it is the actual dealers who “disseminate” the advertisements. Moreover, Respondents deny that Regulation Z applies to Respondents pursuant to 12 CFR § 1026.1(c).***

July 8, 2021

Respectfully submitted,

*/s/ L. Etienne Balart*

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***Counsel for Respondents, Traffic Jam Events,  
LLC and David J. Jeansonne II***

**CERTIFICATE OF SERVICE**

I hereby certify that on July 8, 2021, I caused the foregoing document to be served via electronic mail to:

April Tabor  
Acting Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580

The Honorable Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

Thomas J. Widor  
Sanya Shahrabi  
Federal Trade Commission  
Bureau of Consumer Protection  
600 Pennsylvania Avenue, NW  
Mailstop CC-10232  
Washington, DC 20506  
twidor@ftc.gov  
sshahrabi@ftc.gov

*Complainant Counsel*

July 8, 2021

*/s/ L. Etienne Balart*  
L. ETIENNE BALART



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

DOCKET NO. 9395

TRAFFIC JAM EVENTS, LLC, a limited liability company

and

DAVID J. JEANSONNE II, individually and as an officer of TRAFFIC JAM EVENTS, LLC.

DECLARATION OF DAVID J. JEANSONNE, II UNDER 28 USC § 1746

1. My name is David J. Jeansonne, II. I am over the age of 21, and I am competent and capable of making this Declaration. I have personal knowledge of the facts and statements contained herein, and each of them is true and correct to the best of my knowledge, information, and belief.
2. I am the President of Traffic Jam Events, LLC.
3. I offer this Declaration on behalf of Traffic Jam Events, LLC, and as an individual.
4. I have reviewed Respondents' Amended Responses to Complaint Counsel's First Set of Requests for Admissions dated June 23, 2021, and hereby verify that they are true and correct to the best of my knowledge and belief.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of July, 2021.

  
DAVID J. JEANSONNE, II

COMPLAINT COUNSEL'S MOTION  
TO DETERMINE THE SUFFICIENCY OF  
RESPONDENTS' RESPONSES TO REQUESTS FOR ADMISSION

**EXHIBIT B**

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

**In the Matter of**

**TRAFFIC JAM EVENTS, LLC, a limited  
liability company**

**and**

**DAVID J. JEANSONNE II, individually and as  
an officer of TRAFFIC JAM EVENTS, LLC.**

**DOCKET NO. 9395**

**RESPONDENTS' RESPONSES TO SECOND SET  
OF REQUESTS FOR ADMISSIONS**

**NOW INTO COURT**, through undersigned counsel, come Traffic Jam Events, LLC (“Traffic Jam”) and David J. Jeansonne II (collectively, “Respondents”), who respond to the Second Set of Requests for Admissions of the Federal Trade Commission as follows:

**General Objections**

Respondent Traffic Jam generally objects to these Requests to the extent that Complainant seeks information from Traffic Jam concerning the business activities of another company, and further seeks information answers to questions involving the operations of that company with entities other than Traffic Jam. The responses herein, to the extent they relate to Platinum Plus, are not given on behalf of Traffic Jam nor are they given by Individual Respondent in his capacity as an officer of Traffic Jam.

Respondents jointly object to these Requests to the extent that they seek conclusions of law rather than fact.

Respondents also object to the extent that words like “created,” generated,” disseminated” and similar descriptors used by counsel ignore that for all of the advertisements at issue, the

information and data placed in the ads is provided, generated, created and disseminated *by the dealers that hire Traffic Jam for advertising services*. Traffic Jam Events LLC is not a licensed car dealer and does not sell cars.

**REQUEST FOR ADMISSION NO. 33:**

Respondent David Jeansonne is the owner of Platinum Plus Printing, LLC, a Minnesota limited liability company with its principal place of business at 701 6th Street, NW, Maple Lake, MN 55358.

**ANSWER TO REQUEST FOR ADMISSION NO. 33:**

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

**REQUEST FOR ADMISSION NO. 34:**

Platinum Plus Printing, LLC, has purchased services to print advertisements designed by Respondent Traffic Jam Events, LLC, on behalf of, at the request of, and for the benefit of automotive dealerships.

**ANSWER TO REQUEST FOR ADMISSION NO. 34:**

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Platinum Plus is not a party to this proceeding, and its business is not an issue in dispute in this proceeding. Accordingly, Respondents object to this Request.

**REQUEST FOR ADMISSION NO. 35:**

Since 2013, under United States Patent and Trademark Office Registration No. 4,373,483, Platinum Plus Printing, LLC, has been the registered owner of the service mark, “COMBINATION BOX” for use in commerce to identify digital electronic display devices for promotional advertisement, namely for contests, sweepstakes and lotteries.

**ANSWER TO REQUEST FOR ADMISSION NO. 35:**

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Accordingly, Respondents object to this Request.

**REQUEST FOR ADMISSION NO. 36:**

Respondent Traffic Jam Events, LLC has created and disseminated print advertisements that use the text “COMBINATION BOX” to describe digital electronic display devices used in contests and sweepstakes.

**ANSWER TO REQUEST FOR ADMISSION NO. 36:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, the Request is DENIED. Any advertisements are

disseminated by the automotive dealers identified in the advertisement.

**REQUEST FOR ADMISSION NO. 37:**

In 2020 and 2021, Respondent Traffic Jam Events, LLC, created and disseminated advertisements that contained statements that describe monthly payment amounts or the amount of down payment for the purchase of automobiles on credit.

**ANSWER TO REQUEST FOR ADMISSION NO. 37:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action. Traffic Jam further objects to the word “create” as being undefined and subject to multiple interpretations. The advertisements are actually “created” by the dealers – who specify what content they want – and simply “produced” by Traffic Jam.

Subject to these objections, the Request is DENIED insofar as the request states that Traffic Jam disseminated anything. Any and all advertisements are disseminated by the automotive dealers identified in the advertisement. Traffic Jam admits that it created advertisements, as described, on behalf, and at the direction and input of, automotive dealers.

**REQUEST FOR ADMISSION NO. 38:**

In 2020 and 2021, Respondent Traffic Jam Events, LLC, created and disseminated advertisements that contained statements that describe an APR or “annual percentage rate” offered to consumers for automotive financing.

**ANSWER TO REQUEST FOR ADMISSION NO. 38:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Further, the Request does not identify what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action. The advertisements are actually “created” by the dealers – who specify what content they want – and simply “produced” by Traffic Jam.

Subject to these objections, the Request is DENIED insofar as the request states that Traffic Jam disseminated anything. Any and all advertisements are disseminated by the automotive dealers identified in the advertisement. Traffic Jam admits that it created advertisements, as described, on behalf, and at the direction and input of, automotive dealers.

**REQUEST FOR ADMISSION NO. 39:**

Respondent Traffic Jam Events, LLC did not review advertisements that Respondent Traffic Jam Events, LLC created and disseminated that describe monthly payment amounts, down payments or an APR for compliance with 16 C.F.R. § 226.24.

**ANSWER TO REQUEST FOR ADMISSION NO. 39:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Additionally, the Request is not limited in time and therefore is unduly burdensome. Further, the Request does not identify

what advertisements, or even a single advertisement, it seeks an admission upon, nor does it identify any advertisement that is the subject of the instant action.

Subject to these objections, the Request is DENIED as it implies that Traffic Jam had a legal duty to do so. As more fully described in the deposition of Mr. Jeansonne, the automotive dealerships on whose behalf the advertisements are created and made, and who give the data used in the advertisements, are responsible to review for compliance.

**REQUEST FOR ADMISSION NO. 40:**

On all of the Madison Tent Event Prize Notification Mailers sent to residents of Alabama, the code “74937” appeared under the heading “OFFICIAL WINNING CODE.”

**ANSWER TO REQUEST FOR ADMISSION NO. 40:**

DENIED.

**REQUEST FOR ADMISSION NO. 41:**

On all the Madison Tent Event Prize Notification Mailers sent to residents of Alabama, the code “74937” was displayed in the accompanying black box with the title “COMBINATION BOX.”

**ANSWER TO REQUEST FOR ADMISSION NO. 41:**

DENIED.

**REQUEST FOR ADMISSION NO. 42:**

On all of the Madison Tent Event Prize Notification Mailers sent to residents of Alabama, the code that appeared under the heading “OFFICIAL WINNING CODE” matched the code displayed in the accompanying black box with the title “COMBINATION BOX.”

**ANSWER TO REQUEST FOR ADMISSION NO. 42:**

DENIED.



**REQUEST FOR ADMISSION NO. 43:**

At the Madison Tent Event, the number used to determine what prize a recipient of the Madison Tent Event Prize Notification Mailer could claim was not the code that appeared under the heading “OFFICIAL WINNING CODE” or the code displayed in the accompanying black box with the title “COMBINATION BOX.”

**ANSWER TO REQUEST FOR ADMISSION NO. 43:**

This Request is confusing and appears to contain an error preventing Respondents from understanding what is being requested. Subject to further clarification, Respondents will provide a response.

**REQUEST FOR ADMISSION NO. 44:**

At the Madison Tent Event, the number used to determine what prize a recipient of the Madison Tent Event Prize Notification Mailer could claim was printed at the bottom of the first page of the advertisement, where the characters “<PRIZEBOARD NUMBER>” appear on Exhibit C to the ANSWER AND DEFENSE OF RESPONDENTS TRAFFIC JAM EVENTS, LLC, AND DAVID J. JEANSONNE II.

**ANSWER TO REQUEST FOR ADMISSION NO. 44:**

This Request is confusing and appears to contain an error preventing Respondents from understanding what is being requested. Subject to further clarification, Respondents will provide a response.

**REQUEST FOR ADMISSION NO. 45:**

At the Madison Tent Event, recipients of the Madison Tent Event Prize Notification Mailer on which the code “74937” appeared under the heading “OFFICIAL WINNING CODE” were not entitled to claim a cash prize of \$2,500.

**ANSWER TO REQUEST FOR ADMISSION NO. 45:**

Respondents object to this Request. This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request.

To the extent a response is required, it is DENIED as a recipient was entitled to claim a cash prize of \$2500.

**REQUEST FOR ADMISSION NO. 46:**

On all of the **Attachment 1** advertisements sent to residents in Texas, the code “74937” appeared adjacent to the words “PEEL HERE.”

**ANSWER TO REQUEST FOR ADMISSION NO. 46:**

DENIED.

**REQUEST FOR ADMISSION NO. 47:**

On all of the **Attachment 1** advertisements sent to residents of Texas, the code that appeared adjacent to the words “PEEL HERE” matched the code displayed in the “COMBINATION BOX” affixed to the advertisement.

**ANSWER TO REQUEST FOR ADMISSION NO. 47:**

DENIED.

**REQUEST FOR ADMISSION NO. 48:**

At the event described in **Attachment 1**, the number used to determine what prize a recipient of **Attachment 1** could claim appeared at the bottom of the first page of the advertisement under the barcode, to the right of the text “WINNING NUMBER.”

**ANSWER TO REQUEST FOR ADMISSION NO. 48:**

DENIED.

**REQUEST FOR ADMISSION NO. 49:**

At the event described in **Attachment 1**, recipients of **Attachment 1** on which the code “74937” appeared adjacent to the words “PEEL HERE” and in the “COMBINATION BOX” affixed to the advertisement were not entitled to claim a cash prize of \$2,500.

**ANSWER TO REQUEST FOR ADMISSION NO. 49:**

DENIED, as a recipient was entitled to claim a cash prize of \$2500.

**REQUEST FOR ADMISSION NO. 50:**

The image below is the Great Seal of the United States.



**ANSWER TO REQUEST FOR ADMISSION NO. 50:**

This Request is improper under 16 CFR 3.32 because it does not relate to the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Respondents do not have personal information as to what the Great Seal of the United States is, but are happy to stipulate to what it is.

**REQUEST FOR ADMISSION NO. 51:**

**Attachment 1** is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive sales event in Houston, Texas from September 24, 2020, through September 30, 2020, for or on behalf of Tom Peacock Nissan.

**ANSWER TO REQUEST FOR ADMISSION NO. 51:**

DENIED. The advertisement was for an event in 2019.

**REQUEST FOR ADMISSION NO. 52:**

**Attachment 1** was sent to residents in Texas in September 2020, with names and zipcodes of each resident inserted in place the name and zipcode on **Attachment 1**.

**ANSWER TO REQUEST FOR ADMISSION NO. 52:**

DENIED. The advertisement was for an event in 2019.

**REQUEST FOR ADMISSION NO. 53:**

**Attachment 2** is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive sales event in Houston, Texas from June 16, 2020, to June 20, 2020, for or on behalf of South Houston Nissan.

**ANSWER TO REQUEST FOR ADMISSION NO. 53:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 54:**

**Attachment 2** was sent to residents in Texas in June 2020.

**ANSWER TO REQUEST FOR ADMISSION NO. 54:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 55:**

**Attachment 3** is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive financing offer available through April 30, 2020, for or on behalf of Enterprise Chevrolet in Enterprise, Alabama.

**ANSWER TO REQUEST FOR ADMISSION NO. 55:**

ADMITTED as to Traffic Jam, but DENIED to the extent that the request suggests or implies that the offer was generated by Traffic Jam; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 56:**

**Attachment 3** was sent to residents in Alabama in April 2020.

**ANSWER TO REQUEST FOR ADMISSION NO. 56:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 57:**

**Attachment 4** is a copy of an advertisement generated by Traffic Jam Events LLC to promote an automotive sales event in Middleburg, Florida from April 4, 2020, to April 12, 2020, for or on behalf of New Wave Auto.

**ANSWER TO REQUEST FOR ADMISSION NO. 57:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 58:**

**Attachment 5** is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive sales event in West Palm Beach, Florida from March 23, 2020, to March 29, 2020, for or on behalf of New Wave Auto.

**ANSWER TO REQUEST FOR ADMISSION NO. 58:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 59:**

**Attachment 5** was sent to residents in Florida in March 2020.

**ANSWER TO REQUEST FOR ADMISSION NO. 59:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

**REQUEST FOR ADMISSION NO. 60:**

**Attachment 6** is a copy of an advertisement generated by Traffic Jam Events LLC that promoted an automotive sales event in Hobe Sound, Florida from March 10, 2020, to March 15, 2020, for or on behalf of Treasure Coast Indian Motorcycle.

**ANSWER TO REQUEST FOR ADMISSION NO. 60:**

DENIED, as the ad in question was generated for and on behalf of MK Automotive, Inc. d/b/a New Wave Auto Sales (“New Wave”). Traffic Jam Events LLC is not a licensed car dealer and does not sell cars

**REQUEST FOR ADMISSION NO. 61:**

**Attachment 6** was sent to residents in Florida in February and March 2020.

**ANSWER TO REQUEST FOR ADMISSION NO. 61:**

ADMITTED as to Traffic Jam; DENIED as to Individual Respondent.

July 6, 2021

Respectfully submitted,

*/s/ L. Etienne Balart*

---

L. ETIENNE BALART (La. #24951)  
TAYLOR K. WIMBERLY (La. #38942)

Jones Walker LLP  
201 St. Charles Avenue – 48th Floor  
New Orleans, LA 70170

Telephone: (504) 582-8584

Facsimile: (504) 589-8584

Email: ebalart@joneswalker.com

twimberly@joneswalker.com

***Counsel for Respondents, Traffic Jam Events,  
LLC and David J. Jeanson II***

**CERTIFICATE OF SERVICE**

I hereby certify that on July 6, 2021, I caused the foregoing document to be served via electronic mail to:

April Tabor  
Acting Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580

The Honorable Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

Thomas J. Widor  
Sanya Shahrabi  
Federal Trade Commission  
Bureau of Consumer Protection  
600 Pennsylvania Avenue, NW  
Mailstop CC-10232  
Washington, DC 20506  
twidor@ftc.gov  
sshahrabi@ftc.gov

*Complainant Counsel*

July 6, 2021

*/s/ L. Etienne Balart*  
\_\_\_\_\_  
L. ETIENNE BALART

Sent from my iPhone

Begin forwarded message:

From: "Brickman, Jennifer" <JBrickman@joneswalker.com>  
Date: June 21, 2021 at 2:56:51 PM CDT  
To: "Balart, Etienne" <ebalart@joneswalker.com>  
Subject: VERIFICATION - For Review

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

TRAFFIC JAM EVENTS, LLC, a limited liability company

and

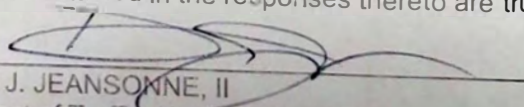
DAVID J. JEANSONNE II, individually and as an officer of TRAFFIC JAM EVENTS, LLC.

DOCKET No. 9395

verification of david j. jeansonne

STATE OF LOUISIANA  
PARISH OF ORLEANS

BEFORE ME, the undersigned Notary Public in and for the Parish and State mentioned above, personally came and appeared DAVID J. JEANSONNE, II individually and as President of TRAFFIC JAM EVENTS, LLC, who declares that he has read the Request for Admissions propounded by FEDERAL TRADE COMMISSION, and that all of the answers contained in the responses thereto are true and correct to the best of his knowledge, information, and belief.



DAVID J. JEANSONNE, II  
President of Traffic Jam Events, LLC



COMPLAINT COUNSEL'S MOTION  
TO DETERMINE THE SUFFICIENCY OF  
RESPONDENTS' RESPONSES TO REQUESTS FOR ADMISSION

**EXHIBIT C**



# \$15,000 INSTANT CASH OVERWAYS



PUBLIC  
PRSR STD  
U S POSTAGE  
PAID  
TRAFFIC JAM

## FEATURING Combination Box™

### AT THE TENT EVENT IN MADISON FOR A LIMITED TIME ONLY!

### OFFICIAL WINNING CODE

**MATCH  
HERE**

# 74937



**YOU ARE A CERTIFIED FINALIST IN THIS GIVEAWAY EVENT!  
IF YOUR DIGITAL ELECTRONIC Combination Box™  
MATCHES THE OFFICIAL WINNING CODE AND ONE OF THE CODES  
BELOW, YOU ARE A GUARANTEED WINNER WITH A POSSIBLE  
\$15,000 INSTANT CASH AT THIS TENT EVENT IN MADISON!\***



33698

74937

90155

04620

60258



**\$15,000  
INSTANT CASH**



**\$2,500  
INSTANT CASH**



**\$800  
AMAZON  
GIFT CARD**



**ALL-NEW  
WIRELESS EARPODS PRO  
W/CHARGING CASE**



**\$250  
WALMART  
GIFT CARD**

**INSIDE YOUR SECURED Combination Box... ARE YOUR 5 DIGITS THAT COULD  
BE THE WINNING COMBINATION TO THE \$15,000 INSTANT CASH! IF YOUR NUMBERS DO NOT  
MATCH, YOU ARE STILL ELIGIBLE FOR THE INCREDIBLE OFFERS DURING THIS EVENT!**

**PULL  
THE TAB**



**PULL TAB  
TO  
ACTIVATE**

**IF YOUR Combination Box™ MATCHES THE OFFICIAL WINNING CODE AND ONE OF THE CODES ABOVE, CALL OR LOG ON  
AND SCHEDULE YOUR APPOINTMENT AT THIS TENT EVENT IN MADISON TO FIND OUT WHAT PRIZE YOU HAVE WON! PLEASE REDEEM  
DURING EVENT HOURS. NO PURCHASE NECESSARY. ANY TAMPERING WITH NUMBERS WILL MAKE THIS DOCUMENT NULL AND VOID.**

**DIGITAL COMBINATION BOX  
IS ONLY GOOD FOR  
A LIMITED TIME ONCE  
ACTIVATED**

5483 W. Waters Ave. #1204  
Tampa, FL 33634

**ALL OTHER CODES - SORRY, YOU ARE NOT A WINNER.**

**1.) <FIRSTNAME>, YOUR COMBINATIONS ABOVE MUST MATCH TO WIN!**

**2.) CALL 888-488-8843 NOW!**

**OR LOG ON TO MyPrizeStatus.com**

**3.) YOUR PIN IS: <CONFCODE>**

**4.) BRING THIS INVITATION TO THE TENT EVENT IN MADISON TO CLAIM YOUR PRIZE**

# MAY 28TH THRU JUNE 3RD ONLY!

<FIRSTNAME LASTNAME> ZIP <ZIP> WINNING NUMBER <PRIZEBOARD NUMBER>



# IMMEDIATE VEHICLE DISCOUNT DISPATCH PROGRAM

## LIMIT TWO (2) VEHICLES PER HOUSEHOLD - WHILE SUPPLIES LAST!

FEDERAL TRADE COMMISSION OFFICE OF THE SECRETARY | FILED 07/26/2020 | Document ID: 60103 | PUBLIC PUBLIC

CONGRATULATIONS TO JAKEB MCGINNIS,  
THE LATEST GRAND PRIZE WINNER!



**PAYMENTS FOR JUST**

**\$0 DOWN \$151/MO.<sup>(1)</sup>**

TO DRIVE AWAY IN THIS NISSAN SENTRA RIGHT NOW!

ON SALE!



**MORE PAYMENTS FOR ONLY**

**\$0 DOWN \$187/MO.<sup>(2)</sup>**

GOING ON NOW, TO TAKE HOME THIS KIA SOUL!

ON SALE!



**EXCLUSIVE SAVINGS!**

**\$0 DOWN \$190/MO.<sup>(3)</sup>**

TO BRING HOME THIS NISSAN VERSA AT THIS EVENT!

ON SALE!



**MANDATORY QUALIFICATIONS TO USE AUTOMOTIVE RELIEF VOUCHER BELOW:**

1) MUST BE PERMANENT U.S. RESIDENT. 2) MUST HAVE VALID DRIVER'S LICENSE. 3) ANNUAL INCOME CANNOT EXCEED \$91,300.00.

VALID ONLY AT: MADISON TENT EVENT  
8760 MADISON BLVD. • MADISON, AL 35758

101

ISSUED  
To: \_\_\_\_\_  
(PLEASE FILL IN COMPLETELY)  
NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, ST ZIP: \_\_\_\_\_

UP TO THE AMOUNT OF

\$ **3,107 92**

UP TO THE AMOUNT OF: THREE THOUSAND ONE HUNDRED SEVEN AND \*\*\*92/100\*\*\*

Pres.

AUTHORIZED SIGNATURE  
- VOID IF DUPLICATED • NOT A CHECK -

Void where prohibited, certificate has no cash value, non-negotiable certificate. This is not a check. Only valid if presented upon registration. Amount good toward select new vehicles. Cannot be used in conjunction with any other offers. Expires June 6th, 2020.

IF YOUR NUMBERS MATCH, YOU ARE GUARANTEED AT LEAST ONE (1) OF THESE CERTIFIED PRIZES\*:

1.



\$15,000  
INSTANT CASH

2.

\$2,500  
INSTANT CASH



3.

\$800  
AMAZON GIFT CARD



4.

ALL-NEW WIRELESS EARPODS  
PRO W/CHARGING CASE



5.

\$250  
WALMART GIFT CARD



**EXCLUSIVE TENT EVENT HEADQUARTERS IN MADISON, AL**

8760 MADISON BLVD. • MADISON, AL 35758

EVENT HOURS: MONDAY-SATURDAY: 9AM-8PM

SUNDAY: CLOSED TO RESTOCK

**SPECIALIZED FINANCING OPPORTUNITIES ALSO AVAILABLE:**

**0% APR INSTANTLY!** <sup>(4)</sup>

**NO PAYMENTS UP TO 6 MONTHS FOR A LIMITED TIME ONLY!** <sup>(5)</sup>



**15% OVER KBB VALUE FOR ALL TRADE-INS!** <sup>(6)</sup>

(1) \$0 down, plus tax, title and license/\$151 per month example: 2016 Nissan Sentra stk#GY242202 sale price \$9,995 72 months at 2.9% APR with approved credit. (2) 0 down, plus tax, title and license/\$187 per month example: 2018 Kia Soul stk#P7594191 sale price \$11,995 72 months at 2.9% APR with approved credit. (3) 0 down, plus tax, title and license/\$190 per month example: 2018 Nissan Versa stk#12434 sale price \$12,495 72 months at 2.9% APR with approved credit. (4) No payments for up to 6 months subject to lender's approval with approved credit. Interest accrues from date of purchase. (5) 0% APR available on select new Nissan models for up to 84 months financing thru NMAC with approved credit-subject to lender's approval. (6) Must be presented upon registration. Valid on select pre-owned vehicles model year 2014 or newer and priced \$15,000 or higher. Cannot combine any offers. \*If the winning number on your invitation matches the prize board at the dealership, you have won one (1) of the following prizes: #1 \$15,000 Instant Cash 1:52,000 #2 \$2,500 Instant Cash 1:52,000 #3 \$800 Amazon Gift Card 1:52,000 #4 All-New Wireless Earpods Pro w/Charging Case 51,996:52,000 #5 \$250 Walmart Gift Card 1:52,000. All taxes are the responsibility of the prize winner(s). Contest begins May 26th, 2020 and ends June 6th, 2020. No purchase necessary. Purchase does not increase chance of winning. Contest open to legal US residents age 18 or older with a valid driver's license who received an original mail piece via US mail. Excludes Florida residents. Participants agree to all contest rules. See dealer for complete contest rules. Landers McLarty Nissan employees and associates, mail house, associated sponsors or agencies, and their family members and members of same household are ineligible. Addressee must redeem original mail piece in person by close of business June 6th, 2020. Any unclaimed prizes will not be awarded. All photos are for illustration purposes only. Vehicles are subject to prior sale. Void where prohibited by law. All offers end June 6th, 2020.

Batteries are included in attached Combination Box™ device and must be disposed of properly per state regulations.



COMPLAINT COUNSEL'S MOTION  
TO DETERMINE THE SUFFICIENCY OF  
RESPONDENTS' RESPONSES TO REQUESTS FOR ADMISSION

**EXHIBIT D**



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Michael E. Tankersley  
Division of Financial Practices  
(202) 631-7091; mtankersley@ftc.gov

June 28, 2021

**By Email ebalart@joneswalker.com**

L. Etienne Balart  
Jones Walker LLP  
201 St. Charles Ave  
New Orleans, LA 70170-5100

**Re: FTC Docket 9395, Complaint Counsels' First Set of Requests for Admissions**

Dear Mr. Balart:

In the interest of conferring to obviate or narrow a motion to challenge the sufficiency your initial responses, we request that Respondents provide revised responses to the First Set of Requests for Admissions to cure the deficiencies in their responses to the following requests:

**Requests 1, 2, 3, 4**

Respondents object to responding to each of these four requests on the basis that Platinum Plus is not a party. This is not a valid justification for refusing to admit. As the Court's orders have made clear, Platinum Plus's activities and these statements are plainly within the scope of discovery in this proceeding. The objection that Requests 3 and 4 calls for legal conclusions is also not a valid basis for failing to admit. *See* 16 C.F.R. § 3.32(a) (request for admission may relate to the application of law to fact).

**Requests 4, 6, 7, 8, 31, 32**

Respondents object to these requests on the basis that they fail to specify an act, an advertisement, or a time, or "conflate" the business of Respondents. These are not valid grounds for refusing to admit or deny. If Respondents contend that the statements must be qualified, the Rule governing admissions requires that Respondents qualify their admission and specify the part they contend is contrary to fact. *See* 16 C.F.R. § 3.32(b) ("when good faith requires that a party qualify its answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder."). If Respondents contend that the statements must be qualified to distinguish one of the Respondents or a period, they must respond with an appropriately qualified answer identifying the Respondent or period. *See* Instructions 6.c and 6.d.

**Requests 11, 15, 16, 18, 19, 27, 28**

In each of these requests, Traffic Jam admits a statement that Respondent Jeansonne denies. Because both respondents have access to the same information, there is no justification for contradictory responses. Respondent Jeansonne's denials are not supported by the facts and contradicted by Traffic Jam's admissions. These contradictory responses cannot be justified on the basis that Traffic Jam alone was responsible for the events referenced in the Requests because none of these Requests attribute the events to both or either Respondent.

**Request 17 and 20**

Respondents refused to provide responses because the Requests "appear[s] to contain an error." Recognizing the error, Rule 3.32(b) still requires that a party answer in good faith and qualify as necessary. To clarify, the requests inadvertently included "were distributed." Request 17 should read "Respondents mailed or caused to be mailed approximately 35,000 pieces of the Florida Stimulus Mailer." Request 20 should read "Respondents mailed or caused to be mailed approximately 10,000 pieces of the Alabama Stimulus Mailer."

**Requests 24, 26**

The responses to these Requests do not fairly meet the substance of the requested admission. Respondents deny Request 26 on the basis that the Mailer "creates no such impression," but Request 26 does not reference any impression. Respondents object to Request 24 on the ground that the U.S. Government does not have a patent or exclusive right to the word "stimulus," but Request contains no reference to patents, exclusive rights or the U.S. Government. In addition, the failure to admit is inconsistent with Respondent Jeansonne's June 22 testimony.

If you have questions or wish to discuss any of these responses further, please call me ((202) 631-7091). We request that Respondents provide revised responses that address the deficiencies identified above by no later than **Friday, July 3, 2021**.

Sincerely,

\_\_\_\_\_  
/s

Michael E. Tankersley  
Staff Attorney  
Division of Financial Practices

cc: Taylor Wimberly, twimberly@joneswalker.com  
David Jeansonne, david@trafficjamevents.com

COMPLAINT COUNSEL'S MOTION  
TO DETERMINE THE SUFFICIENCY OF  
RESPONDENTS' RESPONSES TO REQUESTS FOR ADMISSION

**EXHIBIT E**



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Michael E. Tankersley  
Division of Financial Practices  
(202) 631-7091; mtankersley@ftc.gov

July 16, 2021

**By Email ebalart@joneswalker.com**

L. Etienne Balart  
Jones Walker LLP  
201 St. Charles Ave  
New Orleans, LA 70170-5100

**Re: FTC Docket 9395, CoTJE, Deficiencies in 2d Set of Requests for Admissions Responses**

Dear Mr. Balart:

In the interest of conferring to obtain appropriate responses without a motion, we request that Respondents provide revised responses to the Second Set of Requests for Admissions to cure the deficiencies in the following requests and similar responses in the Amended Responses to the First Requests for Admission:

**Requests 33, 34**

Respondents object to responding to each of these four requests on the basis that Platinum Plus is not a party. This is not a valid justification for refusing to admit. Platinum Plus brokered services for Respondent Traffic Jam with printers in multiple states, and the prior orders in this action have unambiguously established that its activities are within the scope of discovery.

Your amended responses to Requests 1, 2, 3 and 4 are improper for the same reason. In addition, your amended responses to Requests 3 and 4 improperly reference a deposition rather than responding directly to the request. *In the Matter of Bristol-Myers Company*, 1976 FTC LEXIS 273 at \*3 (June 16, 1976).

**Request 35**

Respondents' relevance objection is unfounded. Respondents' use of a registered trademark in commerce is relevant to their defense that they are not engaged in interstate commerce.

**Request 36**

The response to this Request does not fairly meet the substance of the requested admission because it does not address whether Respondent Traffic Jam Events created the advertisements. *See In re General Motors Corp.*, 1977 FTC LEXIS 293, at \*6-7 (Jan. 28, 1977); *Apex Oil Co. v.*



*Belcher Co. of New York*, 855 F.2d 1009, 1019 (2d Cir. 1988) (outright denial is improper where part of request is true). Respondents also have no valid basis for refusing to admit these requests because they use the term “created.” Respondents’ Answer states Traffic Jam Events “is in the business of creating mailers on behalf of automotive dealerships to promote automotive sales.”

### **Request 39**

The Request does not ask Respondents to admit to a legal duty, and the denial based on your contention that others had a legal duty is not responsive to the request. *In re General Motors Corp.*, 1977 FTC LEXIS 293, at \*11 (“the essential point of that request may not be evaded by responding to a question which was not asked.”).

### **Requests 43, 44**

Your response does not explain what clarification you seek for these requests.

### **Requests 45, 49**

The responses to these Requests do not fairly meet the substance of the requested admission. The statement that “a recipient was entitled to claim a prize” is not inconsistent with the request to admit that “the recipients” plural were not entitled to claim a prize. Based on your statement, the responses to Requests 45 and 49 should be ADMITTED with the qualification that *a recipient* (at each event) was entitled to claim a cash prize of \$2,500. *See In re General Motors Corp.*, 1977 FTC LEXIS 293, at \*11 (response should admit true portion and deny the remainder).

### **Request 50**

Lack of personal knowledge is not a valid basis for objecting to a request for admission. Rule 3.32 requires reasonable investigation and such investigation would confirm the truth of this Request. *In the Matter of Bristol-Myers Company*, 1976 FTC LEXIS 273 at \*4 (June 16, 1976)

### **Requests 53-59, 61**

Respondent Jeansonne’s denials are improper because none of these Requests attribute the events to both or either Respondent. Your amended responses to Requests 11, 15, 16, 18, 19, 27, and 28 are improper for the same reason.

If you have questions or wish to discuss any of these responses further, please call me ((202) 631-7091). We request that Respondents provide revised responses that address the deficiencies identified above by no later than Wednesday, July 20, 2021.

Sincerely,

/s

Michael E. Tankersley  
Staff Attorney  
Division of Financial Practices

cc: Taylor Wimberly, [twimberly@joneswalker.com](mailto:twimberly@joneswalker.com)  
David Jeansonne, [david@trafficjamevents.com](mailto:david@trafficjamevents.com)