WILLARD K. TOM 1 General Counsel 2 SARAH SCHROEDER (CA Bar No. 221528) MATTHEW GOLD (NY Bar No. 2073963) 3 KERRY O'BRIEN (CA Bar No. 149264) 901 Market Street, Suite 570 4 San Francisco, CA 94103 Telephone: (415) 848-5100 5 Facsimile: (415) 848-5184 6 e-mail: sschroeder@ftc.gov; mgold@ftc.gov; kobrien@ftc.gov 7 Attorneys for Plaintiff FEDERAL TRADE COMMISSION 8 9 10 UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA 11 OAKLAND DIVISION 12 13 FEDERAL TRADE COMMISSION, Case No. CV 10-5418 PJH 14 Plaintiff, [PROPOSED] 15 v. STIPULATED ORDER FOR 16 PERMANENT INJUNCTION AND NATIONAL AWARDS SERVICE MONETARY JUDGMENT AS TO: 17 ADVISORY, LLC, et al., STEVEN MCCLENAHAN, (1) (2) 18 Defendants PRIZE REGISTRY BUREAU, INC. 19 **(3)** CONSOLIDATED DATA BUREAU, INC.. 20 **(4)** REGISTERED DATA ANALYTICS, INC., AND 21 **(5)** LLOYD BRANNIGAN EXCHANGE, INC., 22 Defendants. 23 24 Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), filed its 25 Complaint, subsequently amended (as amended, "Complaint"), for a permanent 26 injunction and other equitable relief in this matter pursuant to Section 13(b) of the 27 Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The FTC and

Final Order re: McClenahan, PRB, CDB, RDA & LBE - CV 10-5418 PJH

Defendants Steven McClenahan, Prize Registry Bureau, Inc., Consolidated Data

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Bureau, Inc., Registered Data Analytics, Inc., and Lloyd Brannigan Exchange, Inc., ("Stipulating Defendants"), by and through their counsel, stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment as to Steven McClenahan, Prize Registry Bureau, Inc., Consolidated Data Bureau, Inc., Registered Data Analytics, Inc., and Lloyd Brannigan Exchange, Inc. ("Order") to resolve all matters in dispute in this action between them.

THEREFORE, it is ORDERED as follows:

FINDINGS

- 1. This Court has jurisdiction over the subject matter and all of the parties.
- 2. Venue is proper as to all parties in this District.
- 3. Stipulating Defendants' activities are "in or affecting commerce," as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
- 4. The Complaint states claims upon which relief may be granted against Stipulating Defendants under Section 5 of the FTC Act, 15 U.S.C. § 45.
- 5. In its Complaint, the FTC charges that Stipulating Defendants engaged in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in the offer of prize promotions.
- 6. Plaintiff and Stipulating Defendants waive all rights to appeal or otherwise challenge or contest the validity of this Order.
- 7. Stipulating Defendants waive any claim that they may hold under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order and agree to bear their own costs and attorneys fees.

DEFINITIONS

For the purposes of this Order, the following definitions apply:

A. "Corporate Defendants" means Prize Registry Bureau, Inc.;
Consolidated Data Bureau, Inc.; Registered Data Analytics, Inc.; and Lloyd
Brannigan Exchange, Inc.; and any entity or name through which they do business

including, but not limited to, Data Distribution Bureau, Inc.; and their successors and assigns.

- B. "Individual Defendant" means Steven McClenahan.
- C. "Prize promotion" means (1) a sweepstakes or other game of chance; or (2) an oral or written express or implied representation that a person has won, has been selected to receive, or may be eligible to receive, or enter a contest to receive, a prize or purported prize, whether in the form of money, merchandise, or anything of value.
- D. "Stipulating Defendants" means the Individual Defendant and the Corporate Defendants, individually, collectively, or in any combination.

ORDER

I.

BAN ON PRIZE PROMOTION

IT IS ORDERED that Stipulating Defendants, whether acting directly or through any other person, are permanently restrained and enjoined from:

- A. Advertising, marketing, promoting, offering for sale, or selling any prize promotion; or
- B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any prize promotion.

II.

PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Stipulating Defendants and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any good or service, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

- A. that any person is affiliated with, endorsed or approved by, or otherwise connected to any other person; or
- B. the cost, performance, efficacy, nature, or characteristic of any good or service.

III.

MONETARY JUDGMENT AND PARTIAL SUSPENSION IT IS FURTHER ORDERED that:

- A. Judgment in the amount of Fifteen Million Four Hundred Eighty Nine Thousand and Forty Three Dollars (\$15,489,043) is entered against Individual Defendant and Corporate Defendants, jointly and severally.
- B. Defendant Steven McClenahan shall pay to the Commission Seven Thousand Eight Hundred Dollars (\$7,800). Such payment shall be made within seven (7) days of entry of this Order by electronic fund transfer in accordance with instructions provided by a representative of the Commission. Upon such transfer, and the transfer of funds held by third parties pursuant to the Section titled "Turnover of Assets Held by Third Parties," the remainder of the judgment shall be suspended subject to the Subsections below.
- C. Plaintiff's agreement to, and the Court's approval of, the suspension of part of the judgment, is expressly premised upon the truthfulness, accuracy, and completeness of Stipulating Defendants' sworn financial statements and related documents and representations (collectively, "financial representations") submitted to the Commission, namely:
 - the Financial Statement of Individual Defendant Steven
 McClenahan signed on January 10, 2011;
 - 2. the Financial Statement of Corporate Defendant Consolidated
 Data Bureau, Inc., signed by Steven McClenahan, President, on
 December 14, 2010;

- 3. the Financial Statement of Corporate Defendant Prize Registry Bureau, Inc., signed by Steven McClenahan, President, on January 10, 2011, including the attachments;
- 4. the Financial Statement of Corporate Defendant Registered Data Analytics, Inc., signed by Steven McClenahan, President, on January 10, 2011, including the attachments;
- 5. the Financial Statement of Corporate Defendant Lloyd Brannigan Exchange, Inc., signed by Steven McClenahan, President, on January 10, 2011, including the attachments;
- 6. Tax returns for Steven McClenahan, provided via letter from Stipulating Defendants' counsel Steven DiLibero to Commission counsel Sarah Schroeder on January 10, 2011;
- 7. Additional documentation submitted by letter from Stipulating Defendants' counsel, Steven DiLibero, Esq., dated January 25, 2011, attaching bank registers of the Corporate Defendants;
- 8. Documentation regarding the Alvis Mock Family Trust submitted by fax from Stipulating Defendants' counsel Katy Garbowicz, Esq., dated November 7, 2011; and
- Steven McClenahan's representation to Court and Commission counsel that he does not control distributions from the Alvis Mock Family Trust.
- D. The suspension of the judgment shall be lifted as to any Stipulating Defendant, if upon motion by the Commission, the Court finds:
 - 1. that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above; or
 - 2. that Defendant is in default on any obligation under this Section.

E. If the suspension of the judgment is lifted, the judgment shall become immediately payable, and the amount due shall be calculated as follows: the judgment amount specified in Subsection A. above (which the parties stipulate only for purposes of this Section represents the consumer injury caused by the acts and practices of the Defendants as alleged in the Complaint), minus any payments previously made pursuant to this Section, plus interest computed from the date of entry of this Order pursuant to 28 U.S.C. § 1961.

IV.

ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

- A. Stipulating Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and shall not seek the return of any assets. Stipulating Defendants also relinquish dominion and all legal and equitable right, title, and interest in all assets held in the name of International Award Advisors, Inc. and Spectrum Caging Service, Inc., including funds held by Capital One Bank in the name of International Award Advisors.
- B. Stipulating Defendants agree that the facts as alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment pursuant to this Order, including but not limited to a nondischargeability complaint in any bankruptcy case. Stipulating Defendants further stipulate and agree that the facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and that this Order shall have collateral estoppel effect for such purposes.
- C. All funds paid, collected, and/or recovered pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, consumer redress, and any attendant

expenses for the administration of such equitable relief. Stipulating Defendants shall cooperate fully to assist the Commission in identifying consumers who may be entitled to redress pursuant to this Order. If the Commission determines, in its sole discretion, that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Stipulating Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Stipulating Defendants shall have no right to challenge the Commission's choice of remedies. Stipulating Defendants shall have no right to contest the manner of distribution chosen by the Commission. This judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture; and

D. Stipulating Defendants shall take no deduction, capital loss, write-off, or any other tax benefit on any federal or state tax return, amended tax return, IRS Form 1045, or any other tax filing, for all or any part of any payment toward satisfaction of this judgment.

V.

TURNOVER OF ASSETS HELD BY THIRD PARTIES

IT IS FURTHER ORDERED that, to partially satisfy the monetary judgment set forth in Section III, any law firm, financial or brokerage institution, escrow agent, title company, commodity trading company, automated clearing house, network transaction, business entity, or person that holds, controls, or maintains custody of any account or asset of, on behalf of, or for the benefit of, any Stipulating Defendant that is frozen pursuant to the Court's December 15, 2010 Preliminary Injunction shall turn over such asset and all funds in such account to the Commission within ten (10) business days of receiving notice of this Order by any means, including, but not limited to, notice provided by facsimile. Accordingly, the

following institutions shall transfer funds in the following accounts to the Commission:

Financial Institution	Account Name and Last Four Digits of Account No.	Approximate Amount in Account
Nevada National Bank	Registered Data Analytics, Account -0824	\$9,229
Nevada National Bank	Prize Registry Bureau, Account -1634	\$700
Nevada National Bank	Consolidated Data Bureau, Account -1774	\$18,469
Nevada National Bank	Consolidated Data Bureau, Account -6474	\$35,253
Nevada National Bank	Consolidated Data Bureau, Account -3394	\$62
Nevada National Bank	Lloyd Brannigan Exchange, Account -4641	\$1,802
PacNet Services	Prize Registry Bureau	\$8,792
PacNet Services	Consolidated Data Bureau	\$10,242
PacNet Services	Registered Data Analytics	\$13,112
	Total:	\$97,661

Such turnover or payment shall be made by wire transfer in accordance with directions provided by the Commission.

VI.

LIFTING OF THE ASSET FREEZE

IT IS FURTHER ORDERED that the freeze of the assets pursuant to the Preliminary Injunction in this case shall be lifted only as to Steven McClenahan, Prize Registry Bureau, Inc., Consolidated Data Bureau, Inc., Registered Data Analytics, Inc., and Lloyd Brannigan Exchange, Inc. This Order does not alter the freeze of the assets of Tully Lovisa, International Award Advisors, Inc., Spectrum Caging Service, Inc., Geovanni Sorino, Jorge Castro, National Awards Service

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Advisory, LLC, or Central Processing of Nevada, LLC., pursuant to the December 15, 2010 Preliminary Injunction.

VII.

DISPOSITION OF PAST CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Stipulating Defendants and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from:

- Disclosing, using, or benefitting from customer information, including Α. the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Stipulating Defendant obtained prior to entry of this Order in connection with the sale of any prize promotion; and
- В. Failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

VIII.

COOPERATION WITH FTC

IT IS FURTHER ORDERED that Stipulating Defendants shall fully cooperate with representatives of the Commission in this case and in any investigation related to or associated with the transactions or the occurrences that are

the subject of the Complaint. Such Stipulating Defendants must provide truthful and complete information, evidence, and testimony. Defendant Steven McClenahan must appear and such Corporate Defendants "must cause their officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena.

IX.

ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Stipulating Defendants obtain acknowledgments of receipt of this Order:

- A. Each Stipulating Defendant, within seven (7) days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For five (5) years after entry of this Order, the Individual Defendant for any business that such Defendant, individually or collectively with any other Defendant, is the majority owner or directly or indirectly controls, and each Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and managers; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities.
- C. From each individual or entity to which a Stipulating Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

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X.

COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Stipulating Defendants make timely submissions to the Commission:

- A. One year after entry of this Order, each Stipulating Defendant must submit a compliance report, sworn under penalty of perjury.
 - 1. Each Stipulating Defendant must: (a) designate at least one telephone number and an email, physical, and postal address as points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Defendant Steven McClenahan must describe if he knew or should have know due to his own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission;
 - 2. Additionally, Defendant Steven McClenahan must: (a) identify all telephone numbers and all email, Internet, physical, and postal addresses, including all residences; (b) identify all titles and roles in all business activities, including any business for he performs services whether as an employee or otherwise and any entity in which he has any ownership interest; and (c) describe in detail his involvement in each such business, including title, role,

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responsibilities, participation, authority, control, and any ownership.

- В. For twenty (20) years following entry of this Order, each Stipulating Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:
 - 1. Each Stipulating Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that Defendant has any ownership interest in or directly or indirectly controls that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.
 - 2. Additionally, Defendant Steven McClenahan must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which he performs services whether as an employee or otherwise and any entity in which he has any ownership interest, and identify its name, physical address, and Internet address, if any.
- Each Stipulating Defendant must submit to the Commission notice of C. the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against such Defendant within fourteen (14) days of its filing.
- D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed

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"and supplying the date, signatory's full name, title (if applicable), and signature.

Ε. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. National Awards Service Advisory, LLC, (Matter Number X1100010).

XI.

RECORDKEEPING

IT IS FURTHER ORDERED that Stipulating Defendants must create certain records for twenty (20) years after entry of the Order, and retain each such record for five (5) years. Specifically, Corporate Defendants and Defendant Steven McClenahan for any business in which that Defendant, individually or collectively with any other Defendants, is a majority owner or directly or indirectly controls, must maintain the following records:

- Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;
- В. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name, addresses, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination:
- C. Customer files showing the names, addresses, telephone numbers, dollar amounts paid, and the quantity and description of goods or services purchased;
- D. Complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;

- E. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
 - F. A copy of each advertisement or other marketing material.

XII.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Stipulating Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended:

- A. Within fourteen (14) days of receipt of a written request from a representative of the Commission, each Stipulating Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.
- B. For matters concerning this Order, the Commission is authorized to communicate directly with each Stipulating Defendant. Defendant must permit representatives of the Commission to interview any employee or other person affiliated with any Stipulating Defendant who has agreed to such an interview. The person interviewed may have counsel present.
- C. The Commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Stipulating Defendants or any individual or entity affiliated with Stipulating Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

1 XIII. RETENTION OF JURISDICTION 2 3 IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order. 4 5 IT IS SO ORDERED, 6 7 Dated: 4/19/12 8 HONORAB HAMILTON 9 UNITED S T JUDGE 10 11 SO STIPULATED AND AGREED: 12 FOR THE PLAINTIFF: FEDERAL TRADE COMMISSION 13 14 15 SARAH SCHROEDER MATTHEW GOLD 16 KERRY O'BRIEN Federal Trade Commission 17 901 Market Street, Ste. 570 San Francisco, CA 94103 18 (415) 848-5150 (voice) (415) 848-5184 (fax) 19 20 Dated: 4/14/12 21 22 FOR DEFENDANTS STEVEN MCCLENAHAN AND PRIZE REGISTRY BUREAU, INC., CONSOLIDATED DATA BUREAU, INC., REGISTERED DATA ANALYTICS, INC., AND LLOYD BRANNIGAN EXCHANGE, INC. 23 24 25 STEVEN MCCLENAHAN, INDIVIDUALLY AND AS AN OFFICER OF PRIZE REGISTRY BUREAU, INC., CONSOLIDATED DATA BUREAU, INC., 26 REGISTERED DATA ANALYTICS, INC., AND LLOYD BRANNIGAN 27 EXCHANGE, INC. 16-2012 28 Final Order re: McClenahan, PRB, CDB, RDA & LBE - CV 10-5418 PJH

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FOR DEFENDANTS INTERNATIONAL AWARD ADVISORS, INC. SPECTRUM CAGING SERVICE, INC. PRIZE REGISTRY BUREAU, INC., CONSOLIDATED DATA BUREAU, INC., REGISTERED DATA ANALYTICS, INC., AND LLOYD BRANNIGAN EXCHANGE, INC.

STÉVEN DILIBERO ESO.

COUNSEL FOR DEFENDANTS

Dated: -2