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13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF NEVADA**

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 v.

2:06-cv-01305

18 NATIONAL PRIZE INFORMATION
19 GROUP CORP. dba Las Vegas
Actionable Awards Program, Prize Search
20 Express, Department of Unclaimed
Awards, United States Sweepstakes
21 Advisory, United States of America
Patriotism Awards, National Bureau of
22 Prize Information, Lapham Vargas and
Cornell, and Directors Office; and

23 JOHN RINCON, individually and as an
24 officer of NATIONAL PRIZE
INFORMATION GROUP CORP.,

25 Defendants.

**FINAL JUDGMENT AND
ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF
AGAINST NATIONAL PRIZE
INFORMATION GROUP
CORP. AND JOHN RINCON**

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27 Plaintiff, the Federal Trade Commission (“Commission”), commenced this action
28 on October 18, 2006, by filing its Complaint for Injunctive and Other Equitable Relief

1 pursuant to Section 13(b) of the Federal Trade Commission act (“FTC Act”), 15 U.S.C.

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2. “Corporate Defendant” means National Prize Information Group Corp. dba Las Vegas Actionable Awards Program, Prize Search Express, Department of Unclaimed

1 7. “Consumer” means an actual or potential purchaser, customer, member, or
2 subscriber.

3 8. “Person” means a natural person, organization, or other legal entity,
4 including a corporation, partnership, proprietorship, association, cooperative, government

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1 shall be provided in the same written or spoken language as the rest
2 of the advertisement, solicitation, label, or other promotional
3 material, except that if the advertisement, solicitation, label, or other
4 promotional material is provided in more than one written or spoken
5 language, the disclosure shall be provided in each such language.

6 Provided, however, that nothing contrary to, inconsistent with, or in mitigation of
7 the disclosure shall be used in any advertisement, solicitation, label, or other promotional
8 material.

9 10. "Sweepstakes promotion" means a sweepstakes or other game of chance, or
10 an oral or written representation, whether express or implied, that a person has won, has
11 been selected to receive, or may be eligible to receive, or enter a contest to receive, a
12 prize or purported prize, whether in the form of money, merchandise, or anything of
13 value.

14 11. The terms "and" and "or" in this Order shall be construed conjunctively or
15 disjunctively, as necessary, to make the applicable phrase or sentence inclusive rather
16 than exclusive.

17 I.

18 PROHIBITED CONDUCT

19 IT IS THEREFORE ORDERED that, in connection with the marketing,
20 advertising, promotion, labeling, distribution, offer for sale, or sale of any product or
21 service, Defendants, whether acting directly or indirectly through any corporation,
22 partnership, subsidiary, division, agent, or other device, and their officers, agents,
23 servants, employees, and attorneys, and all persons in active concert or participation with
24 them who receive actual notice of this Order by personal service or otherwise, are hereby
25 permanently restrained and enjoined from:

26 A. Making or assisting others in making, expressly or by implication, any false
27 or misleading statement or representation of material fact relating to any good or service
28 or the offer of any good or service, including, but not limited to:

- 1 1. Misrepresenting, or assisting others to misrepresent, expressly or by
2 implication, that a consumer has won or will receive anything of
3 value, or that anything of value will be given to a consumer, or the
4 conditions under which anything of value will or may be given; and
- 5 2. Misrepresenting, or assisting others to misrepresent, directly or by
6 implication, any fact material to a consumer's decision to participate
7 in a sweepstakes promotion; and

8 B. Failing to disclose clearly and prominently:

- 9 1. That the advertisement, promotion, or offer for sale of any product or
10 service is being distributed for the purpose of soliciting a purchase, if
11 such is the case, along with a complete description of the goods or
12 services being sold and the total price thereof;
- 13 2. That the consumer who receives the advertisement, promotion, or
14 offer for sale has not won anything of value, if such is the case; and
- 15 3. If the consumer has won anything in connection with the
16 advertisement, promotion, or offer for sale, the exact monetary value
17 of the item won;

18 Provided, however, that nothing contrary to, inconsistent with, or in mitigation of
19 any required disclosure shall be included with any advertisement, promotion, or offer for
20 sale.

21 II.

22 CUSTOMER INFORMATION

23 IT IS FURTHER ORDERED that:

24 A. Defendants shall, within fourteen (14) days after service of this order upon
25 Defendants, deliver to the Commission a list, in the form of a sworn affidavit, of all
26 consumers who paid money to the Corporate Defendant at any time. Such list shall
27 include each consumer's name, address, and telephone number, if available, and the total
28 amount of monies paid less any amount credited for returns or refunds; and

1 B. Except as provided in this Order, Defendants, and their officers, agents,
2 servants, employees, and attorneys, and all persons in active concert or participation with
3 them who receive actual notice of this Order by personal service or otherwise, are
4 permanently restrained and enjoined from:

- 5 1. disclosing, using, or receiving any benefit from customer
6 information, including the name, address, telephone number, email
7 address, social security number, other identifying information, or any
8 data that enables access to a customer's account (including a credit
9 card, bank account, or other financial account), of any person which
10 either Defendant obtained prior to entry of this Order in connection
11 with the sale of sweepstakes information found by the Court in this
12 matter to have been in violation of Section 5 of the FTC Act, 15
13 U.S.C. § 45; and
- 14 2. failing to dispose of such customer information in all forms in their
15 possession, custody, or control within thirty (30) days after
16 complying with the requirements of Subparagraph A above.
17 Disposal shall be by means that protect against unauthorized access
18 to the customer information, such as by burning, pulverizing, or
19 shredding any papers, and by erasing or destroying any electronic
20 media, to ensure that the customer information cannot practicably be
21 read or reconstructed.

22 Provided, however, that customer information need not be disposed of, and may be
23 disclosed, to the extent requested by a government agency in a subpoena duces tecum (i

1 entered against Defendants, jointly and severally, in the amount of twenty-six million
2 eight hundred eighty-five thousand one hundred eighty-two dollars and ninety-two cents
3 (\$26,885,182.92). This monetary judgment shall become immediately due and payable
4 by Defendants upon entry of this Order, and interest computed at the rate prescribed
5 under 28 U.S.C. § 1961(a), as amended, shall immediately begin to accrue on the unpaid
6 balance;

7 B. All payments under this Section III shall be made by wire transfer in
8 accordance with directions provided by the Commission;

9 C. Any funds received by the Commission pursuant to this Section III of this
10 Order shall be deposited into a fund administered by the Commission or its agent to be
11 used for equitable relief, including, but not limited to, restitution and any attendant
12 expenses for the administration of any monetary fund. In the event that direct restitution
13 to consumers is wholly or partially impracticable or funds remain after restitution is
14 completed, the Commission may apply any remaining funds for such other equitable
15 relief, including but not limited to consumer information remedies, as the Commission
16 determines to be reasonably related to the activities found by the Court in this matter to
17 have been in violation of Section 5 of the FTC Act, 15 U.S.C. § 45. Any funds not used
18 for such equitable relief shall be deposited to the U.S. Treasury as equitable
19 disgorgement. Defendants shall have no right to challenge the Commission's choice of
20 remedies or the manner of distribution. No portion of any payments under this Order
21 shall be deemed a payment of any fine, penalty, punitive assessment, or forfeiture;

22 D. Defendants shall furnish to the Commission, in accordance with 31 U.S.C.
23 § 7701, their taxpayer identification numbers (Social Security number or employer
24 identification number), which shall be used for purposes of collecting and reporting on
25 any delinquent amount arising out of this Order; and

26 E. The Individual Defendant is further required to provide the Commission
27 with clear, legible, and full-sized photocopies of all valid driver's licenses he possesses,
28 which will be used for collection, reporting, and compliance purposes, within ten (10)

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VII.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

A. Within ten (10) days of receipt of written notice from a representative of the Commission and in addition to the reports required by Paragraph B of Section VIII below, Defendants each shall submit written reports which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in each Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to use all other lawful means, including but not limited to:

1. Obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;
2. Having its representatives pose as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice; and

C. Defendants each shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided however that nothing in this Order shall limit 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, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

VIII.

COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

A. For a period of five (5) years from the date of entry of this Order,

1. The Individual Defendant shall notify the Commission of the following:

a. Any changes in such Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

b. Any changes in such Defendant's employment status (including self-employment), and any change in such Defendant's ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that such Defendant is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of such Defendant's duties and responsibilities in connection with the business or employment; and

c. Any changes in such Defendant's name or use of any aliases or fictitious names;

2. Defendants shall notify the Commission of any changes in structure of any Corporate Defendant or any business entity that any Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action;

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1 obtained pursuant to the Section titled "Distribution of
2 Order;"

3 b. Any other changes required to be reported under Subsection
4 A of this Section;

5 C. Each Defendant shall notify the Commission of the filing of a bankruptcy
6 petition by such Defendant within fifteen (15) days of filing;

7 D. For the purposes of this Order, Defendants shall, unless otherwise directed
8 by the Commission's authorized representatives, send by overnight courier all reports and
9 notifications required by this Order to the Commission, to the following address:

10 Associate Director for Enforcement
11 Federal Trade Commission
12 600 Pennsylvania Avenue, N.W., Room NJ-2122
13 Washington, D.C. 20580
14 RE: FTC v. National Prize Information Group

15 Provided, however, that, in lieu of overnight courier, Defendants may send such
16 reports or notifications by first-class mail, but only if Defendants contemporaneously
17 send an electronic version of such report or notification to the Commission at
18 DEBrief@ftc.gov; and

19 E. For purposes of the compliance reporting and monitoring required by this
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1 A. Accounting records that reflect the cost of goods or services sold, revenues
2 generated, and the disbursement of such revenues;

3 B. Personnel records accurately reflecting: the name, address, and telephone
4 number of each person employed in any capacity by such business, including as an
5 independent contractor; that person's job title or position; the date upon which the person

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1 delivery shall be within five (5) days of service of this Order upon such Defendant. For
2 new personnel, delivery shall occur prior to them assuming their responsibilities. For any
3 business entity resulting from any change in structure set forth in Subsection A.2 of the
4 Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the
5 change in structure;

6 B. Individual Defendant as Control Person: For any business that the
7 Individual Defendant controls, directly or indirectly, or in which such Defendant has a
8 majority ownership interest, such Defendant must deliver a copy of this Order to (1) all
9 principals, officers, directors, and managers of that business; (2) all employees, agents,
10 and representatives of that business who engage in conduct related to the subject matter of
11 the Order; and (3) any business entity resulting from any change in structure set forth in
12 Subsection A.2 of the Section titled "Compliance Reporting." For current personnel,
13 delivery shall be within five (5) days of service of this Order upon such Defendant. For
14 new personnel, delivery shall occur prior to them assuming their responsibilities. For any
15 business entity resulting from any change in structure set forth in Subsection A.2 of the
16 Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the
17 change in structure;

18 C. Individual Defendant as employee or non-control person: For any business
19 where the Individual Defendant is not a controlling person of a business but otherwise
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1 of receipt of this Order as entered by the Court, must submit to the Commission a truthful
2 sworn statement acknowledging receipt of this Order.

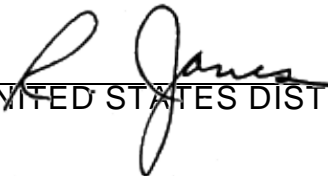
3 XII.

4 RETENTION OF JURISDICTION

5 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this
6 matter for purposes of construction, modification, and enforcement of this Order.

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8 IT IS SO ORDERED.

9 Dated: August 13, 2009


UNITED STATES DISTRICT JUDGE

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