

**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' MEMORANDUM IN OPPOSITION TO COMPLAINT COUNSEL'S MOTION FOR SUMMARY DECISION

Respondents, Traffic Jam Events, LLC and David Jeansonne (collectively "Respondents"), oppose the Memorandum in Opposition to the Motion for Summary Decision (the "Motion"). The Motion should be denied, and the case dismissed.

The Motion should be denied, and the relief requested denied, for a number of reasons, chief among them the complete lack of statutory authority of the Federal Trade Commission ("FTC") under the Federal Trade Commission Act (the "Act"), 15 U.S.C. § 45 *et seq.* Respondents incorporate by reference the evidence herein as responding to, and as necessary denying, Complaint Counsel's Statement of Material Facts.

BACKGROUND FACTS

The background facts are both irrelevant and contain so many gross exaggerations, as has become typical for Complaint Counsel, that a complete response is impossible. Indeed, any reasonable interpretation of the scant and non-existent evidence of alleged consumer injury or harm, or even threat, sufficient to justify the FTC's interest can lead to only one result: this action is a politically motivated witch hunt and finding no witches, the FTC must distract from these

obvious fact by dressing up its “Motion for Summary Decision” with misleading legal citations, exaggerated evidence and a completely distorted view of reality in the form of what is a reasonable consumer. The unfortunate by-product of this is that rather than focusing on real, predatory behavior by bad actors *actually causing or threatening to cause consumer harm*, the FTC has elected to expend its time and resources, as well as this Court’s, in tilting at a windmill.

Regarding the alleged COVID advertising campaign, when this Complaint was filed on August 9, 2020, Complaint Counsel was aware that Respondents had already agreed to not run, and in fact had only run one, failed advertising campaign relating to “COVID” stimulus relief. (**Exhibit 1**, Sworn Declaration of David Jeansonne in C.A. No. 2:20-cv-1740). That campaign was an abject failure, misleading ZERO consumers and thus not material to any determination presented here. Complaint Counsel produces no evidence of even a single consumer of this advertising campaign who was misled or harmed by this deception, or misled or harmed in the purchase or lease of an automobile. The facts do not lie: regardless of how Complaint Counsel may view the advertisement, no reasonable consumer acting reasonably under the circumstances was misled or deceived, and to the persons cited by Complaint Counsel in their Statement (e.g. SFA 60) are not consumers because they never appeared to purchase or lease an automobile. As a matter of law, then, any deception (which is denied as each of the recipients knew the mailer was not “official”) is not material because it did not affect these consumers decision to purchase or lease an automobile.¹

On July 16, 2020, the Federal Trade Commission initiated a lawsuit in the Eastern District

¹ The depths to which Complaint Counsel will sink to portray the facts in a completely overblown, and frankly irresponsible, way is best exemplified in SFA #16. That communication is not to consumers, it was to dealers. No consumer received that communication and no consumer acted on it. In fact, Complaint Counsel presents ZERO evidence that the advertisement was ever acted on by any automotive dealer recipient.

of Louisiana against Respondents, alleging that Respondents had violated the Act by creating a “false and deceptive” advertisement for an automobile tent sale. (Rec. Doc. 1., EDLA CA. No. 2:20-cv-1740, attached as Exhibit 2). In connection with that matter, Individual Respondent submitted a declaration that, *inter alia*, averred that the complained of COVID advertisement (the “COVID Mailer”) was limited to two discrete sales in March of 2020 and further established the following uncontested facts:

- The Mailer involved 45,000 pieces, with 35,000 pieces for an automotive tent sale in Florida, and 10,000 pieces for an automotive tent sale in Alabama.
- From these 45,000 mail pieces, the Florida Attorney General’s Office received two complaints, both from individuals neither of whom appeared at either automotive tent sale, and neither of whom were “misled.”
- Respondents were not aware, nor have they been notified of, any consumer complaints initiated with any Alabama officials on a state or local level with respect to the Mailer.
- The Mailer was printed and sent in March of 2020 as part of one advertising program.
- The sales took place over a single week as reflected on the Mailer. There were no ongoing sales associated with the Mailer nor were Respondents benefitting in any way as a result of the Mailer.
- The Mailer was not a successful advertising program, and generated less than 40 attendees collectively at the two sales.
- No subsequent advertising programs of a similar nature have been used since the sales.
- Specifically, since the Mailer, neither David Jeansonne, II nor Traffic Jam, nor any of its agents, affiliates or employees, have distributed any other solicitations in substantially the same form as the Mailer.

(**Exhibit 1**, Sworn Declaration of David Jeansonne in C.A. No. 2:20-cv-1740 at ¶¶ 6-13). Finally, and of great import to the instant FTC action initiated two months later were these statements in the **June 2020** declaration:

- Since that time [April 23, 2020] and through present, Traffic Jam has given no further consideration to using the Mailer or any version similar thereto.
- Since that time, neither David Jeansonne, II nor Traffic Jam, nor any of its agents, affiliates or employees, have engaged in any activities regarding the creation, publishing, or distribution of solicitations in substantially the same form as the Mailer, nor, from this time and beyond, do David Jeansonne, II, Traffic Jam, and its agents, affiliates or employees,

have any plans or desire to be involved in the creation, publishing, or distribution of solicitations in substantially the same form as the Mailer.

- From this time [date of declaration in June of 2020] and into the future, neither David Jeansonne, II nor Traffic Jam will issue the Mailer, nor any mailer or advertisement in substantially similar form.

(Exh. 1 at ¶¶ 16-18).

Thereafter, the federal district judge ruled in favor of Respondents and denied Complaint Counsel's requested preliminary injunction. (*See* Rec. Doc. 20 in C.A. No. 2:20-cv-1740). The FTC then initiated this action.

Count One complains of the COVID Mailer as a false or deceptive act or practice. At the time the Complaint was filed, the FTC knew that (i) no such act or practice was ongoing; and (ii) no consumers had claimed to have suffered injury; and Respondents had already agreed to cease and desists any act or practice as complained of in Count I. Indeed, the Motion lacks a single citation to any consumer harm, injury or threat, or any action after April of 2020 wherein either Respondent has pursued a similar COVID Mailer.

With knowledge that the "act or practice" on which the entire action in the Eastern District was initiated was lacking, the FTC quickly dismissed the federal court action without prejudice and the FTC proceeded to issue this Complaint. The Complaint contained the same COVID count (Count I) and added two counts – allegedly deceptive prize mailers (Count II) and alleged Truth in Lending Act violations (Count III). All of these counts are factually and legally deficient.

LAW AND ARGUMENT

I. The Commission Has No Authority to Act

The Commission has submitted no evidence necessary to invoke its statutory authority under 15 U.S.C. § 45, and, in particular, section (n). *See, e.g., In re LabMD, Inc.*, No. 9357 (Nov. 19, 2015). Statement of Material Fact 58 is simply not supported by any evidence of "actual or likely" consumer injury or harm as required by the Act. As summarized by this Court in *In re*

LabMD:

Congress amended the FTC Act in 1994 to add Section 5(n). FTC Act Amendments of 1994, Pub. L. No. 103-312, § 9, 108 Stat. 1691, 1695. The intent of the amendment was not to expand, but to establish an outer limit to the Commission's authority to declare an act or practice unfair. *See* H.R. CONF. REP. 103-617 at 5, FTC Act Amendments of 1994, 1994 WL 385368, at *11-12 (July 21, 1994) (stating that new Section 5(n): “[a]mends section 5 of the Act to limit unfair acts or practices to those that: (1) cause or are likely to cause substantial injury to consumers, (2) which is not reasonably avoidable by consumers themselves and (3) not outweighed by countervailing benefits to consumers or competition”) (emphasis added). The three-part test in Section 5(n) was “intended to codify, as a statutory limitation on unfair acts or practices, the principles of the FTC’s December 17, 1980, policy statement on unfairness, reaffirmed by a letter from the FTC dated March 5, 1982,” in order to provide guidance **and to prevent a future FTC from abandoning those principles**. S. REP. 103-130, 1993 WL 322671, at *12 (Aug. 24, 1993) (emphasis added); *see* Letter from FTC to Senators Ford and Danforth (Dec. 17, 1980), appended to *Int’l Harvester Co.*, 104 F.T.C. 949, 1984 FTC LEXIS 2, at *300 (Dec. 21, 1984) (“Policy Statement”); Letter from FTC Chairman J.C. Miller, III to Senator Packwood and Senator Kasten (March 5, 1982), reprinted in H.R. REP. No. 156, Pt. 1, 98th Cong., 1st Sess. 27, 32 (1983) (“1982 Policy Letter”).

According to the Policy Statement, “[u]njustified consumer injury is the primary focus of the FTC Act.” Policy Statement, 1984 FTC LEXIS 2, at *307. Moreover, the consumer injury must be substantial, and not “trivial or merely speculative.” *Id.* In the 1982 Policy Letter, FTC Chairman Miller reiterated that the Commission’s “concerns should be with substantial injuries; its resources should not be used for trivial or speculative harm.” 1982 Policy Letter, *supra*. In adopting Section 5(n), Congress noted: “In most cases, substantial injury would involve monetary or economic harm or unwarranted health and safety risks.” S. REP. 103-130, 1993 WL 322671, at *13. Furthermore, although a finding of unfair conduct can be based on “likely” future harm, “[u]nfairness cases usually involve actual and completed harms.” *Int’l Harvester Co.*, 1984 FTC LEXIS 2, at *248; accord *In re Orkin Exterminating Co.*, 108 F.T.C. 263, 1986 FTC LEXIS 3, at *50 n.73 (Dec. 15, 1986).

Section 5(n) is clear that a finding of actual or likely substantial consumer injury, which is also not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition, is a legal precondition to finding a respondent liable for unfair conduct. See LabMD, 2014 FTC LEXIS 2, at *52 (Commission Order on Motion to Dismiss) (holding that determining Respondent’s liability in this case requires determining whether the alleged “substantial injury” occurred, and “also whether LabMD’s data security procedures were ‘unreasonable’ in light of the circumstances”); FTC v. IFC Credit Corp., 543 F. Supp. 2d 925, 934-35 (N.D. Ill. 2008) (“[S]ubsection (n) . . . requires as a precondition to the FTC’s authority to declare an act or practice to be ‘unfair’

that it be one that ‘causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.’”). *See also FTC v. Wyndham Worldwide Corp.*, 2015 U.S. App. LEXIS 14839, at **54 (3rd Cir. Aug. 24, 2015) (noting that “[t]he three requirements in § 45(n) may be necessary rather than sufficient conditions” for finding unfair conduct). ...

In re LabMD at pp. 47-48 (emphasis added). As this Court continued: “In light of the inherently speculative nature of predicting “likely” harm, it is unsurprising that, historically, liability for unfair conduct has been imposed only upon proof of actual consumer harm. ***Indeed, the parties do not cite, and research does not reveal, any case where unfair conduct liability has been imposed without proof of actual harm, on the basis of predicted ‘likely’ harm alone.***” *Id.* at p. 53.

Section (n) applies to the Commission’s entire statutory authority to act under 15 U.S.C. § 45(a). 15 U.S.C. § 45 combines “unfair or deceptive acts or practices” as one, unified set of “acts or practices” that the Commission has authority to regulate. Section (n)’s “act or practice” reference necessarily includes the entirety of the Commission’s authority to declare an act or practice unlawful. Complaint Counsel may try to argue that section (n) applies only to “unfair” cases and not deception cases, but that is an absurd distinction. To read “deception” out of the unfair practice that the Commission would allow the Commission to continuously avoid its statutory limit by simply nominating all “unfair” cases as cases of deception. Put differently, separating the two would create the anomalous result that a deceptive act is not unfair. All deceptive acts are unfair, while all unfair actions do not necessarily include deception. The limit in section (n) was to the Commission’s entire authority. *In re LabMD* at p. 47.

Complaint Counsel has failed to show by a preponderance of the evidence (indeed, has not shown any evidence of) “actual or likely substantial consumer injury.” Section 5(n) is clear that a finding of actual or likely substantial consumer injury, which is also not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to

competition, is a legal precondition to finding a respondent liable for unfair conduct, necessarily including “deceptive” conduct. *FTC v. IFC Credit Corp.*, 543 F. Supp. 2d 925, 934-35 (N.D. Ill. 2008).

As a matter of law, Counts One and Two fail this test. Under 15 U.S.C § 45(n), “[t]he Commission shall have no authority under this section or section 57a of this title to declare unlawful an act or practice on the grounds that such act or practice is unfair unless the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.” Counts One and Two are legally deficient and should be dismissed.

II. *Counts One and Two Are Also Factually Deficient*

The best Complaint Counsel can do are statements in ¶¶ 58- 65, none of which actually relate to consumer *injury*.² Nor does any of this extrinsic evidence establish that a single reasonable consumer was deceived regarding the purchase or lease of an automobile, which is the product or service offered. Statement 59 involves a Reddit chat forum complaint, but contains no admissible evidence that this consumer was either an actual consumer or suffered any injury. Indeed, this savvy Reddit user spent paragraphs boasting about how he/she identified the scam, meaning that person was obviously not “deceived.”

The Sentinel complaints are also not by any consumers, or consumers who were injured or could be injured. Stated differently, each of these consumers was not deceived, did not travel to a

² Complaint Counsel entitles this section Consumer and *Dealership* Complaints. Complaint Counsel appears to be making the argument that both are “consumers” needing protection from the FTC, which only further underscores the extremely weak and flimsy factual support. Indeed, as a matter of law, Respondents never directly engage with the general public and their “consumers” are the automotive dealers for which they provide marketing services. These consumers are certainly not deceived by any of the acts or practices of Respondents.

dealership to win a prize and did not purchase a car thinking they were getting something else. Indeed, as the Sentinel complainer noted: **“I read the tiny disclaimers and realized this is probably not the case.”** It should also be noted that BBB states that the complaint was answered by the business, and the consumer did not respond to the BBB’s inquiry about being satisfied. Similar notations are made on the other Sentinel complaints. None of this shows any evidence o

The complaints in SMF # 60 relate to at least two of Defendants’ partner dealerships,” yet there is no evidence of such “partnership.” The consumer identified in SMF # 62 *was upset because he received a fake check*, which can only mean that he was not deceived by the check, just angry that it was not an actual check. To state the obvious: This is not “deception.” The statement in SMF # 63 does not pertain to Respondents. The statement in SFA # 64 is actually proof that Count One is not actionable, as all such reports noted the clear identity of the checks as “fake.” Again, no deception of a reasonable consumer of the COVID Mailer.

On that point, the fake check in question is unquestionably not a real check, thus no consumer could be deceived. As admitted by Complaint Counsel:

- The “check” does not have the name of a bank or financial institution on it. (Exhibit 3, Complaint Counsel’s Responses to RFAs at No. 4);
- The “check” does not have a payment amount written out. (Exhibit 3, Complaint Counsel’s Responses to RFAs at No. 6);
- The “check” contains a disclaimer that it has no cash value. (Exhibit 3, Complaint Counsel’s Responses to RFAs at No. 19);
- The “check” contains a disclaimer “This is not a check.” (Exhibit 3, Complaint Counsel’s Responses to RFAs at No. 20);

Moreover, despite Complaint Counsel’s denial, the “check” contains no actual payee on it. (Exh. 3 at RFA No. 5). All of these facts are something any reasonable consumer knows exist on a real check. The “check” in the COVID mailer was patently not a real check, and thus no consumer could have been deceived.

III. *Complaint Counsel Has Failed to Meet Its Own Policy Statement on Deception – No Evidence of Materiality*

The FTC’s own Policy Statement on Deception³ contradicts the positions and evidence cited by Complaint Counsel. First, there must be a representation, omission or practice that is likely to mislead the consumer. Second, the practice must be examined from the perspective of a consumer acting reasonably in the circumstances. Third, the representation, omission, or practice must be a “material” one. The basic question is whether the act or practice is likely to affect the consumer’s conduct or decision with regard to a product or service. If so, the practice is material, and consumer injury is likely, because consumers are likely to have chosen differently but for the deception.

“A misleading claim or omission in advertising will violate Section 5 or Section 12, however, only if the omitted information would be a material factor in the consumer’s decision to purchase the product.” *American Home Products Corp.*, 98 F.T.C. 136, 368 (1981), *aff’d*, 695 F.2d 681 (3d Cir. 1982). A claim is material if it is likely to affect consumer behavior. “Is it likely to affect the average consumer in deciding whether to purchase the advertised product—is there a material deception, in other words?” Statement of Basis and Purpose, Cigarette Advertising and Labeling; Rule, 1965, pp. 86-87. 29 FR 8325 (1964); *see also* FTC Policy Statement on Deception at Section IV.

Putting aside factors one and two, the evidence submitted fails the materiality test in every respect: is the act or practice likely to affect the consumer’s conduct or decision with regard to a product or service? If so, the practice is material, and consumer injury is likely. Here, the total lack of any consumer reliance on the alleged “deception” renders Counts I and II fatally flawed.

³ <https://www.ftc.gov/public-statements/1983/10/ftc-policy-statement-deception>.

In each of the cited complaints, it is clear that nothing in the advertisement affected the consumer's conduct or decision with respect to whether to purchase or lease an automobile. Candidly, this is why Complaint Counsel could not, and cannot ever, present evidence of consumer harm or injury. The "product or service" at issue is the sale or lease of an automobile, and to succeed Complaint Counsel *must* show an act or practice that is deceptive and *affects the consumer's conduct or decisions with respect to buying or leasing an automobile*.

The evidence cited by Complaint Counsel utterly fails in this regard. At its absolute best (and it is still lacking at that level), it is evidence of consumers angry about not winning a free prize, but a free prize is not the "product or service" being offered. Rather, automobiles for sale or lease are the product or service being offered to the consumers. Complaint Counsel cites to **ZERO EVIDENCE** where a consumer went to a dealer, tricked by the deceptive advertisements of Respondents, and was harmed by either not buying a car or by purchasing a car on terms they were dissatisfied with. Complaint Counsel cannot even cite to a single complaint where a consumer even thought about purchasing or leasing an automobile because of the advertisement in question.

Complaint Counsel's entire claim in Counts I and II fail the materiality test for actionable conduct, and are thus, as a matter of law, not actionable. With respect to Count One, Respondents issued **45,000 mail pieces**. (Exh. 1 at ¶¶ 6). Of that total, less than 40 people attended the advertised sales. (Exh. 1 at ¶¶ 10-12). This advertisement had a success rate of **0.089%**, or *less than a tenth of a percent*. How anything contained within the COVID Mailer could be deemed "material" is never explained by Complaint Counsel, and Complaint Counsel has not presented evidence from

a single one of these 40 attendees.⁴ These people would be the only “consumers” as they are the one who, in reaction to receiving the advertisement, took the time to attempt to buy or lease an automobile, *i.e.* the “product or service” offered. The Motion contains no evidence related to any of these individuals.

Lacking any actual evidence, Complaint Counsel argues their own “interpretation” of how a consumer may construe the COVID Mailer (but did not, as noted above) and various prize mailings. This argument is irrelevant and not dispositive, for Complaint Counsel is not the reasonable consumer. And, as shown in Complaint Counsel’s own evidence, the reasonable consumer *knew* that the alleged prizes were not likely to materialize. Moreover, as testified to by Mr. Lilley in his deposition, *the recipient of every prize mailer received at least one prize had they showed up at the dealer, as instructed, and there was at least one grand prize winner in each advertisement.* (Exhibit 4, Deposition of Mr. Lilley at 95:20 – 96:12; 114: 12-23; *see also* 125:23-126:8; 139:8-10; 59: 14-18; and 70:15 – 73:5). This evidence completely guts the unreasonable (and factually incorrect) argument of Complaint Counsel because there is nothing that is deceptive and material. Even assuming such advertisement is deceptive, the only actionable conduct would be a situation where the consumers, thinking only that they had won a prize (not to purchase a car), went to the dealership and either did not get their prize or purchased or leased an automobile they did not want. The Motion filed by Complaint Counsel contains no such evidence on which that conclusion can be drawn.

IV. *Prior Settlements of Unrelated Conduct Is Not Admissible*

In each of the actions cited by Complaint Counsel as purported evidence of wrongdoing,

⁴ As this sale was in the parking lot of a Wal-Mart., walk-up attendees could also have been among these 40. But regardless, even if all 40 attendees were affected consumers, Complaint Counsel cites no complaints from any of them about deception.

the clear and distinct qualifier noting that it is a settlement of *disputed matters* and cannot be used as evidence of wrongdoing or culpability. Indeed, Complaint Counsel is using a Kansas consent order from 2010, a Kansas consent order from 2013 and an Indiana action brought in 2018 and compromised in 2019 as a basis for evidentiary findings of wrongdoing. There is no evidence presented that Respondents are violating the terms of any of these orders; to the contrary, Respondents are and have been abiding by the terms of these consent orders. This alone betrays Complaint Counsel's ill-founded conclusion that Respondents simply blatantly disregard the law.

Moreover, as explained above, in response to the FTC's federal court action, Respondents voluntarily agreed to never run a similar COVID Mailer ever again, nor claim affiliation with a government entity, despite denying that any advertisement met this threshold.

V. *No Proof of Individual Liability*

The evidence presented by Complaint Counsel is wholly insufficient to establish personal responsibility or liability upon Individual Respondent, David Jeansonne. By their logic, all owners of any business are necessarily individually responsible merely by owning the business. Again, Respondents have already agreed to cease and desist from the act or practice on which the FTC based its original action.

VI. *TILA Does Not Apply to Respondents*

As a matter of law, Count III fails. Complaint Counsel has presented no evidence that Respondents offer or provide credit, and that Respondents are subject to TILA. The Truth in Lending Act only provides the Commission with limited jurisdiction in the area of credit. *See* 15 U.S.C. § 57a(a)(2). Among other requirements, the Act requires creditors who deal with consumers to make certain written disclosures concerning finance charges and related aspects of credit transactions (including disclosing an annual percentage rate) and comply with other mandates, and

requires advertisements to include certain disclosures. A creditor “refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement.” 15 USC § 1602(g).

Neither Respondent qualifies as a creditor, and Complaint Counsel has presented no evidence to establish this fact. Moreover, the Consumer Finance Protection Bureau, the entity with more general statutory authority over credit extensions and Regulation Z, is restricted from “exercising any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.” 12 USC § 5519(a). Regulation Z – cited in the Complaint -- provides as follows: “(1) In general, this part applies to each individual or business that offers or extends credit, other than a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376, when four conditions are met: (i) The credit is offered or extended to consumers; (ii) The offering or extension of credit is done regularly; (iii) The credit is subject to a finance charge or is payable by a written agreement in more than four installments; and (iv) The credit is primarily for personal, family, or household purposes.” Neither Respondent meets this definition. None of these evidentiary conditions have been met, and Count III fails.

VII. *Requested Relief Is Beyond the Act’s Grant of Authority*

The Act only allows the Commission to issue a cease and desist order for acts or practices to which the Act applies. 15 U.S.C. § 45(b). Thus, even if this Court agrees factually with the

evidence presented in the Motion for Summary Decision, this Court’s decision may only (i) declare the acts or practices unlawful and (ii) issue a cease and desist order. *AMG Capital Mgt., LLC v. Federal Trade Commission*, 593 U. S. ____, at pp. 3-4 (2021). Indeed, the FTC’s own “handbook” on “Federal Trade Commission Advertising Enforcement” recognizes this lack of authority. (<https://www.ftc.gov/sites/default/files/attachments/training-materials/enforcement.pdf> at p. 5; recognizing district court’s broader authority under 15 U.S.C. § 53; *see also AMG Capital*, 593 U.S. ____, at p. 4). The Commission may only issues a cease and desist order on any act or practice deemed unfair or deceptive, and may thereafter initiate actions to seek broader relief including civil penalties for violation. *Compare* 15 U.S.C. § 45(b) and 15 U.S.C. § 45(m) and 57b.

CONCLUSION

The Motion for Summary Decision should be denied and all counts dismissed.

September 7, 2021

Respectfully submitted,

/s/ L. Etienne Balart

L. ETIENNE BALART (La. #24951)

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Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2021, I caused the foregoing document to be served via the FTC's E-filing system and 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
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Complaint Counsel

/s/ L. Etienne Balart

L. ETIENNE BALART

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

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

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

Defendants.

Civil Action No. 2:20-cv-1740

Judge: Wendy B. Vitter

Magistrate: Dana Douglas

DECLARATION OF DAVID JEANSONNE, II

I, David Jeansonne, II, pursuant to 28 U.S.C. § 1746, declare the following:

1. I am of the full age of majority and make this declaration based upon my personal knowledge.
2. I am the founder and President of Traffic Jam Events, LLC (“Traffic Jam”) and have held that position since 2007. Traffic Jam is in the business of direct mail advertising.
3. Traffic Jam and David Jeansonne, II have been named as Defendants in the above captioned litigation filed by the Federal Trade Commission (“FTC”) against Traffic Jam and David Jeansonne, II (Traffic Jam, David Jeansonne, II and the FTC are collectively referred to herein as the “Parties”) in the United States District Court for the Eastern District of Louisiana, Civil Action No. 2:20-cv-1740, relating to a certain mailer/advertisement referencing COVID (the “Litigation”).
4. Through my counsel, I offered to enter into a stipulation or a consent judgment on behalf of Traffic Jam and David Jeansonne, II regarding the statements contained herein; however, the Parties were unable to agree to such a stipulation or consent judgment. Therefore, this Declaration is submitted in opposition to the FTC’s Motion for a Temporary Restraining Order (“TRO”) and the hearing in connection with same.
5. The mailer/advertisement complained of in the Litigation (the “Mailer”) was used in connection with one mailing event distributed for two locations back in March 2020.

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6. The Mailer involved 45,000 pieces, with 35,000 pieces for an automotive tent sale in Florida, and 10,000 pieces for an automotive tent sale in Alabama.

7. From these 45,000 mail pieces, the Florida Attorney General's Office received two complaints, both from individuals neither of whom appeared at either automotive tent sale.

8. Traffic Jam and David Jeansonne, II are not aware, nor have they been notified of, any consumer complaints initiated with any Alabama officials on a state or local level with respect to the Mailer.

9. The Mailer was printed and sent in March of 2020 as part of one advertising program.

10. The sales took place over a single week as reflected on the Mailer. There are no ongoing sales associated with the Mailer nor am I benefitting in any way as a result of the Mailer.

11. The Mailer was not a successful advertising program, and generated less than 40 attendees collectively at the two sales.

12. No subsequent advertising programs of a similar nature have been used since the sales.

13. Specifically, since the Mailer, neither David Jeansonne, II nor Traffic Jam, nor any of its agents, affiliates or employees, have distributed of any other solicitations in substantially the same form as the Mailer.

14. On April 17, 2020, Mike Kastrenakes informed me that the Florida Attorney General was requesting that New Wave Automotive Sales enter into an agreement to pay each customer at the Florida tent sale \$3,300.00. Mike Kastrenakes also informed me that he was having his attorney review this demand. I have read the Assurance of Voluntary Compliance entered into by Mike Kastrenakes wherein he agreed to pay \$11,000, \$10,000 of which was to be held for restitution to eligible consumers and for "future enforcement efforts," and cooperate with the Florida Attorney General.

15. On or about April 23, 2020, Traffic Jam became aware of a news report in Tampa, Florida regarding the Mailer. Traffic Jam subsequently learned that an action had been filed in Tampa, Florida by the Office of the Attorney General, State of Florida, Department of Legal Affairs, alleging that the mailer violated Florida law.

16. Since that time, Traffic Jam has given no further consideration to using the Mailer or any version similar thereto.

17. Since that time, neither David Jeansonne, II nor Traffic Jam, nor any of its agents, affiliates or employees, have engaged in any activities regarding the creation, publishing, or distribution of solicitations in substantially the same form as the Mailer, nor,

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from this time and beyond, do David Jeansonne, II, Traffic Jam, and its agents, affiliates or employees, have any plans or desire to be involved in the creation, publishing, or distribution of solicitations in substantially the same form as the Mailer.

18. From this time and into the future, neither David Jeansonne, II nor Traffic Jam will issue the Mailer, nor any mailer or advertisement in substantially similar form.

19. While Traffic Jam and David Jeansonne, II deny that the Mailer contained the term “official” or otherwise referenced the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, Traffic Jam and David Jeansonne, II will not represent or imply to any consumers that official COVID-19 government stimulus funds, including but not limited to funds available under the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, are being offered by Traffic Jam and/or David Jeansonne, II, or any car dealership with which they work or provide advertising and marketing services to.

20. Traffic Jam and David Jeansonne, II will not represent or imply to any consumers that Defendants or any car dealership with which they work are affiliated with, are supported, endorsed, certified, or licensed by, or are working in partnership with or as an agent of any government agency, for the purpose of providing official, government-issued COVID-19 stimulus relief funds or other government relief funds related to COVID-19, as currently enacted.

21. Traffic Jam and David Jeansonne, II will preserve all records related to the Litigation.

22. Traffic Jam and David Jeansonne, II will not use any customer information obtained in the tent sales resulting from the Mailer.

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

Dated: 6-22-20



DAVID JEANSONNE, II

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

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

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

Defendants.

Civil Action No. 2:20-cv-1740

Judge:

Magistrate:

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

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

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

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), (b)(2), and (c)(2), and 15 U.S.C. § 53(b).

PLAINTIFF

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

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

DEFENDANTS

6. Defendant Traffic Jam Events, LLC is a Louisiana limited liability company with its principal place of business at 2232 Idaho Avenue, Kenner, LA 70062. Traffic Jam Events transacts or has transacted business in this District and throughout the United States. Traffic Jam Events offers direct mail marketing services and staffed tent sales events to automotive dealerships.

7. Defendant David J. Jeanson II, is the owner, managing member, and president of Traffic Jam Events. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Traffic Jam Events, including the acts and practices set forth in this Complaint. Defendant Jeanson resides in this District and, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

COMMERCE

8. At all times material to this Complaint, Defendants Traffic Jam Events and Jeansonne (hereinafter Defendants or Traffic Jam Events) have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS ACTIVITIES

9. Since at least March 2020, Defendants have mailed or caused to be mailed deceptive advertisements purporting to provide COVID-19 stimulus relief to consumers.

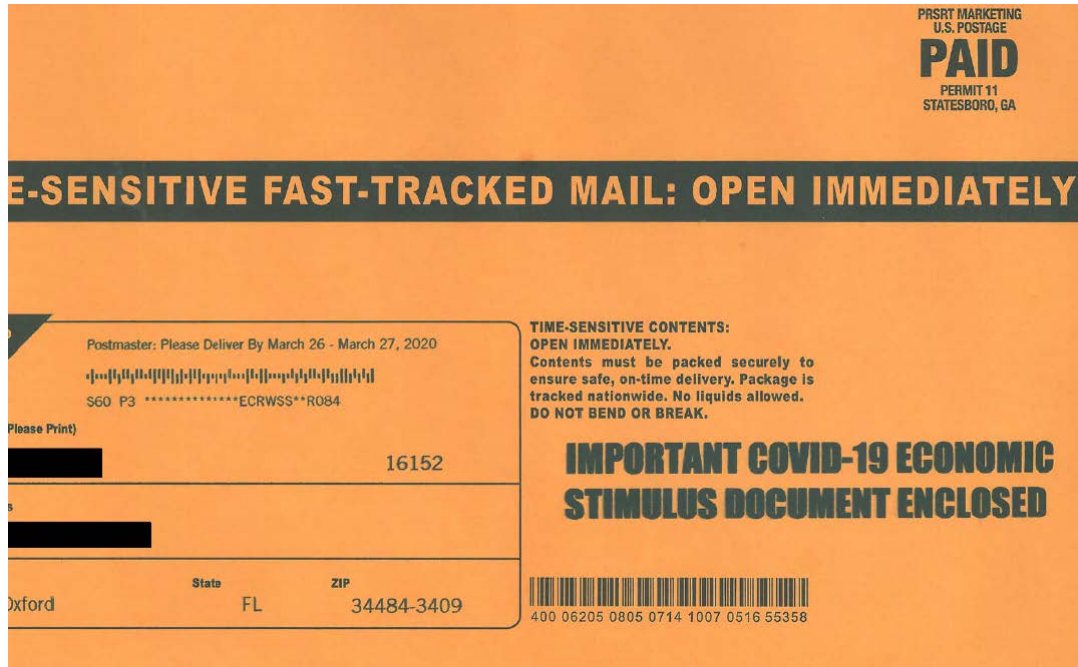
10. The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), P.L. 116-136, was enacted to provide immediate assistance to individuals, families, and businesses affected by the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak. The CARES Act provides a \$1,200 stimulus payment to individuals and a \$2,400 payment for married couples, with an additional \$500 payment per qualifying child. Relief begins phasing out when incomes exceed \$75,000 for individual filers and \$150,000 for joint filers.

11. In addition to the monetary relief, the CARES Act provides deferrals on payments for federally-backed mortgages and federal student loans. It does not provide relief relating to auto loans or auto-related financing.

Traffic Jam Events’ Deceptive Advertising

12. Traffic Jam Events has sought to lure individuals and families to auto sales events under the guise that valuable stimulus relief was available at designated locations for a short period of time.

13. For example, Traffic Jam Events solicited consumers to a Florida auto sale with a “TIME-SENSITIVE” mailer purporting to contain “IMPORTANT COVID-19 ECONOMIC STIMULUS DOCUMENTS.”



A copy of the mailer envelope is attached as Exhibit A.

14. The notice contained in the mailer states at the top in bold: “URGENT: COVID-19 ECONOMIC AUTOMOTIVE STIMULUS PROGRAM RELIEF FUNDS AVAILABLE • ALL PAYMENTS DEFERRED FOR 120 DAYS.” The notice header also includes a barcode with a notice number that claims to relate to “COVID-19 STIMULUS (INDIVIDUAL)” and a watermark depicting a likeness of the Great Seal of the United States.

**URGENT: COVID-19 ECONOMIC AUTOMOTIVE STIMULUS PROGRAM
RELIEF FUNDS AVAILABLE • ALL PAYMENTS DEFERRED FOR 120 DAYS**

**Eligible Dates:
March 27th thru
April 5th, 2020**



DATE: 03/25/20
NOTICE NO: FB02-021225-096781
ACCOUNT TYPE: COVID-19 STIMULUS (INDIVIDUAL)
DESCRIPTION: URGENT NOTICE - READ IMMEDIATELY

A copy of the notice is attached as Exhibit B.

15. Below the header information, the notice claims in bold that “[a] **special COVID-19 Economic Automotive Stimulus Program with relief funds and other incentives will be held at 5925 SW 20th St., Bushnell, FL 33513.**” A highlighted box touts specific relief similar to the CARES Act relief, including thousands in relief funds and payment deferrals.

At the specified relief headquarters, the following incentives may be available to ALL residents of Bushnell, FL:

- **0% A.P.R. financing for 60 months.** A variety of vehicles (cars, trucks, SUVs, etc.) will have 0% A.P.R. financing available with little to no money down. ⁽¹⁾
- **All payments will be deferred for 120 days.** Do not make a car payment for 120 days/4 months. ⁽²⁾
- **Receive a \$100 Walmart Gift Card with every vehicle purchase.** Extra funds to be used for any other needs you may have during this time. ⁽³⁾
- **Thousands in Relief Funds with this notice.** Receive additional discounts on your vehicle purchase – check the enclosed documentation for your funds.

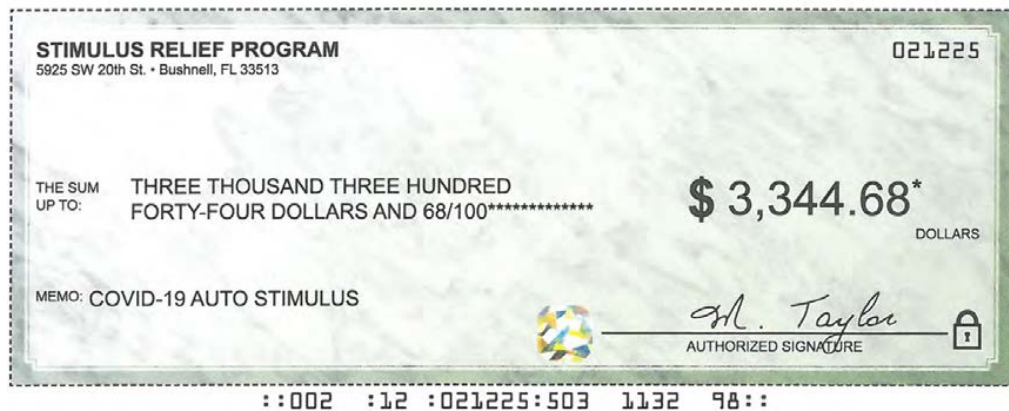
16. The notice repeatedly describes the location as “relief headquarters,” “your designated temporary 10-day site,” and “designated local headquarters.” In particular, the notice represents that consumers “must claim these stimulus incentives at your designated temporary 10-day site: 5925 SW 20th St., Bushnell, FL 33513.”

17. The notice additionally purports to describe “Mandatory qualifications to receive Stimulus Relief Funds:”

Mandatory qualifications to receive Stimulus Relief Funds:

- 1) Must be permanent U.S. resident.
- 2) Must have valid driver's license.
- 3) Annual Income cannot exceed \$91,300.00.

18. Defendants also have included a supposed check issued by “Stimulus Relief Program” with the memo field stating “COVID-19 AUTO STIMULUS” and a space to endorse the check on the back.



A copy of the purported check is attached as Exhibit C.

19. In fact, Defendants are not providing important COVID-19 stimulus information or stimulus relief, including stimulus checks. Additionally, Defendants are not affiliated or otherwise associated with, or approved by, the government, or otherwise permitted to use the Great Seal of the United States.

20. Defendants have been the subject of prior law enforcement actions for using deceptive advertising campaigns, including two by the State of Kansas in 2010 and 2012 and another by the State of Indiana in 2018. The Florida Attorney General also sued Defendants on April 23, 2020 over the Florida mailers, yet Defendants continue to provide advertising and marketing services to the automotive industry nationwide.

21. Based on the facts and violations of law alleged in this Complaint, the FTC has reason to believe that Defendants are violating or are about to violate laws enforced by the Commission.

VIOLATIONS OF THE FTC ACT

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

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

Count I

Misrepresentations Regarding COVID-19 Relief

24. In numerous instances in connection with the advertising, marketing, promotion, or offering for sale, or sale of auto vehicles, including through the means described in Paragraphs 12-18, Defendants have represented, directly or indirectly, expressly or by implication, that

- a) Consumers are receiving official COVID-19 stimulus information;
- b) Consumers are receiving COVID-19 stimulus relief, including stimulus checks; and
- c) Defendants are affiliated or otherwise associated with, or approved by, the government.

25. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 24:

- a) Consumers are not receiving important COVID-19 stimulus information;
- b) Consumers are not receiving COVID-19 stimulus relief, including stimulus checks; and

c) Defendants are not affiliated or otherwise associated with, or approved by, the government.

26. Therefore, Defendants' representations as set forth in Paragraph 24 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

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

THIS COURT'S POWER TO GRANT RELIEF

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

PRAYER FOR RELIEF

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

A. Award Plaintiff such preliminary injunctive and ancillary relief as may be

Case 2:20-cv-01740 Document 1 Filed 06/16/20 Page 9 of 9

necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including, but not limited to, a temporary and preliminary injunction;

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

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

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

Respectfully submitted,

ALDEN F. ABBOTT
General Counsel

Dated: 6/16/2020

/s/ Sanya Shahrasi
SANYA SHAHRASBI
(DC Bar No. 1671001)
THOMAS J. WIDOR
(DC Bar No. 490184)

Federal Trade Commission
600 Pennsylvania Ave., NW, CC-10232
Washington, DC 20580
(202) 326-2709 (Shahrasi)
(202) 326-3039 (Widor)
sshahrasi@ftc.gov
twidor@ftc.gov

EXHIBIT A

FULL TO OPEN ▶▶▶

PRSR Marketing
U.S. POSTAGE
PAID
PERMIT 11
STATESBORO, GA

Case 2:20-cv-01740 Document 1-1 Filed 06/16/20 Page 2 of 9

TIME-SENSITIVE FAST-TRACKED MAIL: OPEN IMMEDIATELY

TO

Postmaster: Please Deliver By March 26 - March 27, 2020



S60 P3 *****ECRWSS**R084

Name (Please Print)

[Redacted Name]

16152

Address

[Redacted Address]

City

Oxford

State

FL

ZIP

34484-3409

TIME-SENSITIVE CONTENTS:

OPEN IMMEDIATELY.

Contents must be packed securely to ensure safe, on-time delivery. Package is tracked nationwide. No liquids allowed. **DO NOT BEND OR BREAK.**

IMPORTANT COVID-19 ECONOMIC STIMULUS DOCUMENT ENCLOSED



400 06205 0805 0714 1007 0516 55358

PUBLIC

TIME-SENSITIVE FAST-TRACKED MAIL: OPEN IMMEDIATELY

CONFIDENTIAL DOCUMENTS ENCLOSED
Do not tamper or mutilate.

DO NOT BEND

Case 2:20-cv-01740 Document 1-1 Filed 06/16/20 Page 3 of 9



400 06205 0805 0714 1007 0516 55358

11516-912F711

EXHIBIT B

**URGENT: COVID-19 ECONOMIC AUTOMOTIVE STIMULUS PROGRAM
RELIEF FUNDS AVAILABLE • ALL PAYMENTS DEFERRED FOR 120 DAYS**

**Eligible Dates:
March 27th thru
April 5th, 2020**



DATE: 03/25/20
NOTICE NO: FB02-021225-096781
ACCOUNT TYPE: COVID-19 STIMULUS (INDIVIDUAL)
DESCRIPTION: URGENT NOTICE - READ IMMEDIATELY

Dear Florida residents,

A special COVID-19 Economic Automotive Stimulus Program with relief funds and other incentives will be held at 5925 SW 20th St., Bushnell, FL 33513, across the street from Walmart 🌟, March 27th thru April 5th, 2020. This program has been established to help local residents purchase automobiles with 120 days until first payment during these challenging times with special discounts, credit and finance opportunities to drastically reduce your out-of-pocket costs.

At the specified relief headquarters, the following incentives may be available to ALL residents of Bushnell, FL:

- 0% A.P.R. financing for 60 months. A variety of vehicles (cars, trucks, SUVs, etc.) will have 0% A.P.R. financing available with little to no money down. >
- All payments will be deferred for 120 days. Do not make a car payment for 120 days/4 months. >
- Receive a \$100 Walmart 🌟 Gift Card with every vehicle purchase. Extra funds to be used for any other needs you may have during this time. >
- Thousands in Relief Funds with this notice. Receive additional discounts on your vehicle purchase – check the enclosed documentation for your funds.

You must claim these stimulus incentives at your designated temporary 10-day site: 5925 SW 20th St., Bushnell, FL 33513, across the street from Walmart 🌟. Bring this notice to collect all of these program benefits toward your vehicle purchase.

Please bring this notice to your designated local headquarters:

**5925 SW 20th St.
Bushnell, FL 33513
Across the street from Walmart 🌟!**

Eligible dates: March 27th thru April 5th, 2020
Monday–Saturday:
9:00am until all attendees have been assisted.
Sunday:
11:00am until all attendees have been assisted.

Look for the set-up tents and speak to an event representative upon your arrival.



URGENT: COVID-19 ECONOMIC AUTOMOTIVE STIMULUS PROGRAM
RELIEF FUNDS AVAILABLE • ALL PAYMENTS DEFERRED FOR 120 DAYS

Mandatory qualifications to receive Stimulus Relief Funds:

- 1) Must be permanent U.S. resident.
- 2) Must have valid driver's license.
- 3) Annual Income cannot exceed \$91,300.00.

This COVID-19 Economic Automotive Stimulus Program will include hundreds of quality, clean cars, trucks, vans and SUVs from participating dealerships in the area. Bring this notice to the relief temporary 10-day site at 5925 SW 20th St., Bushnell, FL 33513, across the street from Walmart 🌟 and choose any of the available vehicles. Here are a couple examples of the more popular vehicles in-stock - with hundreds more available:

Mercedes-Benz M-Class
\$0 down \$116 per mo. ⁽⁴⁾

Nissan Versa
\$0 down \$133 per mo. ⁽⁵⁾

- **0% A.P.R. financing for 60 months.** A variety of vehicles (cars, trucks, SUVs, etc.) will have 0% A.P.R. financing available with little to no money down. ⁽¹⁾
- **All payments will be deferred for 120 days.** Do not make a car payment for 120 days/4 months. ⁽²⁾
- **Receive a \$100 Walmart 🌟 Gift Card with every vehicle purchase.** Extra funds to be used for any other needs you may have during this time. ⁽³⁾
- **Thousands in Relief Funds with this notice.** Receive additional discounts on your vehicle purchase – check the enclosed documentation for your funds.

Stimulus Temporary 10-Day Relief Site:
5925 SW 20th St. • Bushnell, FL 33513
Across the street from Walmart 🌟!

MAP OF TEMPORARY 10-DAY RELIEF SITE:



Eligible dates: March 27th thru April 5th, 2020
Monday–Saturday:
9:00am until all attendees have been assisted.
Sunday:
11:00am until all attendees have been assisted.
Look for the set-up tents and speak to an event representative upon your arrival.

DATE: 03/25/20
NOTICE NO: FB02-021225-096781
ACCOUNT TYPE: COVID-19 STIMULUS (INDIVIDUAL)

(1) 0% APR available on select models for up to 60 months financing subject to lender's approval with approved credit. (2) No payments for 120 days subject to lender's approval with approved credit. Interest accrues from date of purchase. (3) Receive one (1) \$100 gift card to Walmart with any vehicle purchase during the event dates. (4) \$0 down, plus tax, title and license \$116 per month example: 2009 Mercedes-Benz M-Class stk#TRA26442 sale price \$7,399 72 months at 3.9% APR with approved credit. (5) \$0 down, plus tax, title and license \$133 per month example: 2018 Nissan Versa stk#FMR09694 sale price \$8,489 72 months at 3.9% APR with approved credit. New Wave Auto Sales employees and associates, mail house, associated sponsors or agencies, and their family members and members of same household are ineligible. Address: must redeem original mail piece in person by close of business on April 5th, 2020. Vehicles are subject to prior sale. Void where prohibited by law. All offers end April 5th, 2020.

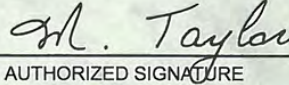

EXHIBIT C

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STIMULUS RELIEF PROGRAM 021225
 5925 SW 20th St. • Bushnell, FL 33513

THE SUM UP TO: THREE THOUSAND THREE HUNDRED FORTY-FOUR DOLLARS AND 68/100***** **\$ 3,344.68*** DOLLARS

MEMO: COVID-19 AUTO STIMULUS

 AUTHORIZED SIGNATURE 

::002 :12 :021225:503 1132 98::

STIMULUS RELIEF PROGRAM

021225

Date	Type	Reference	Original Amt.	Balance Due	Payment
03/25/20	Stimulus Fund	BUSHN-021225	3,344.68	0.00	3,344.68

STIMULUS RELIEF PROGRAM

week ending 04/05/2020

3,344.68

FOR RECIPIENT'S RECORDS

EXHIBIT 2 021225

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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 pre-owned vehicles. Cannot be used in conjunction with any other offers. Expires April 5th, 2020.

ORIGINAL DOCUMENT

DO NOT WRITE, STAMP OR SIGN BELOW THE LINE RESERVED FOR FINANCIAL BANK USE

ENDORSE HERE

EXHIBIT 2

JS 44 (Rev. 06/17)

Case 2:20-cv-01740 Document 1-2 Filed 06/16/20 Page 1 of 2

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS</p> <p>Federal Trade Commission</p> <p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Thomas J. Widor, Sanya Shahrabsi Federal Trade Commission 600 Pennsylvania Ave., N.W., Washington, DC 20580, (202) 326-3039</p>	<p>DEFENDANTS Traffic Jam Events, a limited liability company, and David J. Jeansonne II, individually and as an officer of Traffic Jam Events, LLC</p> <p>County of Residence of First Listed Defendant <u>Jefferson Parish</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input checked="" type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: [Nature of Suit Code Descriptions.](#)

<p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p>	<p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p>	<p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input checked="" type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
<p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 440 Other Civil Rights</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer. w/Disabilities - Other</p> <p><input type="checkbox"/> 448 Education</p>	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <p><input type="checkbox"/> 463 Alien Detainee</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p>Other:</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement</p>		<p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p>	<p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. § 45(a)

Brief description of cause:
The Complaint alleges deceptive and unlawful trade practices that violate the Federal Trade Commission Act.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 06/16/2020 SIGNATURE OF ATTORNEY OF RECORD: Sanya Shahrabsi

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

EXHIBIT 2

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Federal Trade Commission,

Plaintiff(s)

v.

Traffic Jam Events, a limited liability company, and David J. Jeansonne II, individually and as an officer of Traffic Jam Events, LLC

Defendant(s)

Civil Action No. 2:20-cv-1740

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) David J. Jeansonne II
821 Transcontinental Dr
Metairie, Louisiana 70001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Thomas J. Widor
Federal Trade Commission
600 Pennsylvania Ave., NW, CC-10232
Washington, DC 20580

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 2:20-cv-1740

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the
Eastern District of Louisiana

Federal Trade Commission,

Plaintiff(s)

v.

Traffic Jam Events, a limited liability company, and
David J. Jeansonne II, individually and as an officer
of Traffic Jam Events, LLC

Defendant(s)

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Civil Action No. 2:20-cv-1740

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Traffic Jam Events, LLC
2232 Idaho Avenue
Kenner LA 70062

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Thomas J. Widor
Federal Trade Commission
600 Pennsylvania Ave., NW, CC-10232
Washington, DC 20580

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 2:20-cv-1740

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**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 OBJECTIONS AND RESPONSES TO
RESPONDENT’S FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Rule 3.32 of the Federal Trade Commission’s Rules of Practice, Complaint Counsel hereby responds to Respondent’s First Set of Requests for Admissions, dated June 23, 2021. Complaint Counsel has endeavored to offer a good faith response to the First Set of Requests for Admissions but reserves the right to amend or supplement responses, especially insofar as Respondents may produce additional documents and information, the review of which may alter our responses herein.

Subject to the General Objections and the Specific Objections below, and without waiving these objections, Complaint Counsel answers as follows:

GENERAL OBJECTIONS

The following General Objections apply to each request for documents in Respondent’s Requests and are hereby incorporated by reference into our response to each request. The assertion of the same, similar or additional objections, or partial answers in response to an

individual Request, does not waive any of Complaint Counsel's General Objections as to the other Requests.

1. Complaint Counsel objects to Respondent's Request to the extent the requests are directed to the Federal Trade Commission rather than to Complaint Counsel.
2. Complaint Counsel objects to Respondent's Requests to the extent that they seek to impose duties and obligations upon Complaint Counsel beyond the Commission's Rules of Practice for Adjudicative Proceedings.
3. Complaint Counsel objects to the First Requests for Admission to the extent the Requests are overly broad, vague, ambiguous, unduly burdensome, oppressive, and are not reasonably calculated to lead to the discovery of admissible evidence.
4. Complaint Counsel objects to the First Requests for Admission to the extent the Requests seek information protected by deliberative process privilege, law enforcement investigative privilege, informant's privilege, or the work product doctrine. Complaint Counsel does not, by any response to any Request, waive or partially waive any applicable privilege or work product claim.
5. Complaint Counsel reserves all of its evidentiary objections to the introduction or use of any response herein at the hearing in this action, and does not, by any response to any Request, waive any objection that a Request is irrelevant or inadmissible in connection with a motion or hearing in this action.

SPECIFIC OBJECTIONS AND RESPONSES**REQUEST FOR ADMISSION NO. 1:**

The Federal Trade Commission (“FTC”) has no pending investigation into any automotive dealers with whom Traffic Jam has done business.

Response: In addition to the General Objections, Complaint Counsel specifically objects to the relevance of this request as it is not likely to lead to discovery of admissible evidence. Complaint Counsel also objects to the extent it requests information or documents covered by the law enforcement evidentiary files privilege and work product doctrine. Moreover, Complaint Counsel specifically objects pursuant to Rule 3.31(c)(2), to the extent that it seeks materials that were not “collected or reviewed in the course of the investigation of this matter or prosecution of this case and that are in the possession, custody or control of the Bureaus or Offices of the Commission that investigated the matter.”

REQUEST FOR ADMISSION NO. 2:

The FTC has no pending complaints against any automotive dealers with whom Traffic Jam has done business.

Response: In addition to the General Objections, Complaint Counsel specifically objects that the terms “pending complaints” and “automotive dealers with whom Traffic Jam has done business” are vague and ambiguous. Moreover, Complaint Counsel objects to the relevance of this request as it is not likely to lead to discovery of admissible evidence. Complaint Counsel also objects to the extent it requests information or documents covered by the law enforcement investigatory files privilege and work product doctrine. Complaint Counsel specifically objects pursuant to Rule 3.31(c)(2), to the extent that it seeks the materials that were not “collected or reviewed in the course of the investigation of this matter or prosecution of this case and that are in the

possession, custody or control of the Bureaus or Offices of the Commission that investigated the matter.”

REQUEST FOR ADMISSION NO. 3:

Since January 1, 2018, the FTC has not issued any cease and desist letters to automotive dealers for deceptive representations regarding prize winnings.

In addition to the General Objections, Complaint Counsel specifically objects to the term “cease and desist letters” as vague and ambiguous. Moreover, Complaint Counsel objects to the relevance of this request as it is not likely to lead to discovery of admissible evidence. Without waiving these objections, Complaint Counsel is unaware of the Commission issuing cease and desist letters or any authority for such letters, and, on that basis, Complaint Counsel admits this request.

REQUEST FOR ADMISSION NO. 4:

The “check” cited in the FTC Complaint, and as continued in the Florida Stimulus Mailer and the Alabama Stimulus Mailer, does not contain the name or identity of a financial institution or bank.

Response: In addition to the General Objections, Complaint Counsel specifically objects the phrase “check” and “as continued” in this Request is vague and ambiguous. There are four checks cited in the FTC Complaint. Also Complaint Counsel objects to the extent that this Request is not likely to lead to discovery of admissible evidence. Subject to those objections, Complaint Counsel (1) admits the check from the Stimulus Relief Program cited in the FTC Complaint and included as Exhibit C to the FTC Complaint and Exhibit A to Respondents’ Answer does not contain the name or identity of a financial institution or bank but denies the remainder of the Request as the Alabama Stimulus Mailer attached to Respondents’ Answer does not include a “check.”

REQUEST FOR ADMISSION NO. 5:**The “check” cited in the FTC Complaint has no payee.**

Response: In addition to the General Objections, Complaint Counsel specifically objects to “‘check’ cited in the FTC Complaint” and “‘payee’” as vague and ambiguous. Subject to those objections, the check was mailed in envelopes addressed to specific recipients; therefore, Complaint Counsel denies the purported check described in paragraph 9.F and marked as Exhibit C of the FTC Complaint has no payee.

REQUEST FOR ADMISSION NO. 6:**The “check” cited in the FTC Complaint has no amount of payment written in longhand form.**

Response: In addition to the General Objections, Complaint Counsel specifically objects to “‘check’ cited in the FTC Complaint” and “‘longhand form’” as vague and ambiguous. Complaint Counsel also objects to relevance of this request as it is not likely to lead to discovery of admissible evidence. Subject to those objections, to the extent “‘longhand’” means written out fully by hand or in cursive, Complaint Counsel admits the check described in paragraph 9.F and marked as Exhibit C to the FTC Complaint does not have an amount of payment written in longhand.

REQUEST FOR ADMISSION NO. 7:**Prior to March 27, 2020, the United States Government had not enacted any stimulus relief program relating to Coronavirus.**

Response: In addition to the General Objections, Complaint Counsel objects to the terms “‘United States Government’” and “‘stimulus relief program’” are vague and ambiguous. Subject to the objections, Complaint Counsel admits that the Coronavirus Aid, Relief, and Economic Security Act (“‘CARES Act’”), P.L. 116-136, was enacted on March 27, 2020 to provide

immediate assistance to individuals, families, and businesses affected by the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak.

REQUEST FOR ADMISSION NO. 8:

The CARES Act was passed by Congress on March 27, 2020.

Response: In addition to the General Objections, Complaint Counsel objects to the term “Congress” as vague and ambiguous. Subject to the objections, Complaint Counsel admits the House of Representatives passed the CARES Act on March 27, 2020.

REQUEST FOR ADMISSION NO. 9:

A reasonable U.S. citizen was aware of the United States Government’s passage of the CARES Act.

Response: In addition to the General Objections, Complaint Counsel objects that this request, including the terms “reasonable U.S. citizen” and “United States Government’s passage,” is vague and ambiguous. Subject to the objections, Complaint Counsel denies that a U.S. citizen acting reasonably under the circumstances would have been aware of the United States Government’s passage of the CARES Act.

REQUEST FOR ADMISSION NO. 10:

A reasonable U.S. citizen was aware, as of March 27, 2020, that she would receive a stimulus check from the United States Government in the amount of \$1,200 for single adults, and \$500 per child.

Response: In addition to the General Objections, Complaint Counsel specifically objects that this request, including the terms “reasonable U.S. citizen,” “stimulus check,” and “United States Government,” is vague and ambiguous. Subject to the General and Specific Objections, Complaint Counsel denies that a U.S. citizen acting reasonably under the circumstances, as of

March 27, 2020, would have been aware of the specific credit amount she would receive, if any, the form of that credit, or from where it would come. The CARES Act provided a tax credit equal to the sum of \$1,200 to eligible individuals and \$2,400 to eligible individuals filing a joint return, with an additional \$500 credit multiplied by the number of qualifying children. The amount of the credit was reduced under the CARES Act by 5 percent of so much of a taxpayer's adjusted gross income as exceeds \$75,000 for individual filers, \$112,500 for a head of household filer, and \$150,000 for joint returns. The credit was issued through various means, including direct deposit, prepaid cards, and paper checks. The CARES Act also provides for additional forms of relief.

REQUEST FOR ADMISSION NO. 11:

As of March 28, 2020, it was widely reported in the mainstream media and virtually all news outlets, that the CARES Act provided single adults with income less than \$75,000 a \$1,200 check, and families and couples with income below \$150,000 a \$2,400 check plus an additional \$500 per child.

Response: In addition to the General Objections, Complaint Counsel specifically objects that this request is ambiguous and that the terms “widely reported,” “mainstream media,” and “virtually all news outlets” are vague and ambiguous. Complaint Counsel also objects to the request being overly burdensome and not likely to lead to discovery of admissible evidence. Subject to the General and Specific Objections, Complaint Counsel admits that, as of March 28, 2020, certain media and news outlets reported that the CARES Act would provide a credit to eligible individuals. After reasonable inquiry, Complaint Counsel otherwise lacks sufficient information to admit or deny the remainder of the Request as it would require Complaint Counsel to review all mainstream media and virtually all news outlets.

REQUEST FOR ADMISSION NO. 12:

As of March 28, 2020, it was widely reported in the mainstream media and virtually all news outlets that the CARES Act maximum eligible income was \$99,000 for individuals and \$198,000 for couples.

Response: In addition to the General Objections, Complaint Counsel specifically objects that this request is ambiguous and that the terms “widely reported,” “mainstream media,” and “virtually all news outlets” as vague and ambiguous. Subject to the General and Specific Objections, Complaint Counsel admits that, as of March 28, 2020, media and news outlets reported that the the CARES Act would provide a credit to eligible individuals.

After reasonable inquiry, Complaint Counsel otherwise lacks sufficient information to admit or deny the remainder of the Request as it would require Complaint Counsel to review all mainstream media and virtually all news outlets.

REQUEST FOR ADMISSION NO. 13:

There is no annual income limit of \$91,300.00 in the CARES Act or any other United States Government relief.

Response: Subject to General Objections, Complaint Counsel specifically objects to “any other United States Government relief” as vague, ambiguous, and overbroad. Complaint Counsel also objects to relevance of this request as it is not likely to lead to discovery of admissible evidence. Subject to those objections, Complaint Counsel admits that there is no annual income limit of \$91,300.00 in the CARES Act. Complaint Counsel denies the remainder of the Request as to “any other United States Government relief.”

REQUEST FOR ADMISSION NO. 14:

The FTC initiated the Complaint filed in the Eastern District of Louisiana (Case No. 2:20-cv-10740) based strictly on information provided to it by the Florida Attorney General's Office.

Response: In addition to the General Objections, Complaint Counsel objects to the relevance of this request as it is not likely to lead to discovery of admissible evidence. Complaint Counsel specifically objects to the term “initiated” as vague and ambiguous. Complaint Counsel also objects to the extent this Request relates to information or documents protected by the deliberative process privilege, work product doctrine or the law enforcement investigatory files privilege. Moreover, Complaint Counsel specifically objects pursuant to Rule 3.31(c)(2), to the extent that it seeks information beyond the materials “collected or reviewed in the course of the investigation of this matter or prosecution of this case and that are in the possession, custody or control of the Bureaus or Offices of the Commission that investigated the matter.”

REQUEST FOR ADMISSION NO. 15:

With respect to the allegations in the Complaint, Traffic Jam creates advertisements on behalf automotive dealers located in the United States.

Response: In addition to the General Objections, Complaint Counsel specifically objects to the term “with respect to the allegations in the Complaint” as vague and ambiguous. Subject to those objections, Complaint Counsel admits Traffic Jam has created advertisements on behalf of automotive dealers located in the United States.

REQUEST FOR ADMISSION NO. 16:

An automotive dealer is free to offer zero percent (0%) financing to its customers.

Response: In addition to the General Objections, Complaint Counsel specifically objects to the term “free” as vague and ambiguous. Subject to those objections, Complaint Counsel denies this Request. Automobile financing offers must comply with applicable laws and regulations.

REQUEST FOR ADMISSION NO. 17:

An automotive dealer is free to offer payment deferrals to its customers.

Response: In addition to the General Objections, Complaint Counsel specifically objects to the terms “free” and “payment deferrals” as vague and ambiguous. Subject to those objections, Complaint Counsel denies this Request. Payment deferral offers must comply with applicable laws and regulations.

REQUEST FOR ADMISSION NO. 18:

An automotive dealer is free to offer gift cards to prospective customers for visiting a dealership.

Response: In addition to the General Objections, Complaint Counsel specifically objects to the term “free” as vague and ambiguous. Subject to those objections, Complaint Counsel denies this Request. Gift card offers must comply with applicable laws and regulations.

REQUEST FOR ADMISSION NO. 19:

The “check” that is the subject of the FTC Action contains a disclaimer stating that it has “no cash value.”

Response: In addition to the General Objections, Complaint Counsel specifically objects to “‘check’ that is the subject of the FTC Action” and “‘disclaimer’” as vague and ambiguous. Four purported checks appear in Exhibits to the FTC Complaint. Subject to those objections, Complaint Counsel admit (1) the back of the purported check marked as Exhibit C of the

Complaint contains fine print stating “no cash value”; and (2) the purported checks that appear in Exhibit E of the Complaint contain fine print stating “no cash value”; and (3) the purported check that appears in Exhibit F of the Complaint contains fine print stating “no cash value.” Complaint Counsel otherwise denies that the fine print on any of the Exhibits constitutes a valid, clear and conspicuous disclaimer.

REQUEST FOR ADMISSION NO. 20:

The “check” that is the subject of the FTC Action contains a disclaimer stating that “this is not a check.”

Response: In addition to the General Objections, Complaint Counsel specifically objects to the term “‘check’ that is the subject of the FTC Action” and “disclaimer” as vague and ambiguous. Four purported checks appear in Exhibits to the FTC Complaint. Subject to those objections, Complaint Counsel admit (1) The purported check marked as Exhibit C of the Complaint contains fine print stating “this is not a check”; and (2) The purported checks that appear in Exhibit E of the Complaint contain fine print stating “this is not a check”; and (3) The purported check that appears in Exhibit F of the Complaint contains fine print stating “this is not a check.” Complaint Counsel otherwise denies that the fine print on any of the Exhibits constitutes a valid, clear and conspicuous disclaimer.

REQUEST FOR ADMISSION NO. 21:

No consumer has filed a complaint with the FTC concerning either the Florida Stimulus Mailer or the Alabama Stimulus Mailer.

Response: Subject to the General Objections, and the specific objection that this request is not relevant and unlikely to lead to the discovery of admissible evidence, Complaint Counsel denies this Request.

REQUEST FOR ADMISSION NO. 22:

Prior to June 16, 2020, the FTC had not received a complaint from any consumer regarding any advertisements generated by Respondents.

Response: Subject to the General Objections, and the specific objection that this request is not relevant and unlikely to lead to the discovery of admissible evidence, Complaint Counsel denies this Request.

REQUEST FOR ADMISSION NO. 23:

The words “time-sensitive” placed on the envelope used in the Florida Stimulus Mailer and Alabama Stimulus Mailer was approved by the United States Post Office.

Response: In addition to the General Objections, Complaint Counsel specifically objects that the term “approved” in this Request is ambiguous. Complaint Counsel further objects that the request is irrelevant and is not likely to lead to the discovery of admissible evidence. Subject to the General and Specific Objections, after reasonable inquiry, Complaint Counsel is unaware of any evidence that the United States Postal Service approved or reviewed the envelopes used for the Florida Stimulus Mailer and the Alabama Stimulus Mailer and, therefore, denies this Request.

REQUEST FOR ADMISSION NO. 24:

Prior to June 16, 2020, the FTC had not notified Respondents’ of any violations of the FTC Act, nor issued any cease and desist letters regarding any activities conducted on behalf of Respondents.

Response: In addition to the General Objections, Complaint Counsel specifically objects to the term “cease and desist letters” and “any activities” as vague and ambiguous. Complaint Counsel further objects that the request is irrelevant and is not likely to lead to the discovery of admissible evidence. Subject to these objections, Complaint Counsel denies that the FTC did not

notify Respondents of any violations of the FTC Act prior to June 16, 2020. Complaint Counsel called and emailed Respondents' counsel on June 12, 2020, notifying that the Commission had authorized the filing of the federal court complaint.

Pursuant to 28 U.S.C. § 1746, and 16 C.F.R. § 4.2(f), I declare under penalty of perjury that the foregoing is true to the best of my knowledge, information and belief, and the objections comply with the applicable rules.

Executed in Washington, D.C. on July 6, 2021.

By: /s/ Sanya Shahrabi
Sanya Shahrabi
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Mailstop CC-10232
Washington, DC 20506

CERTIFICATE OF SERVICE

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

David J. Jeansonne II
david@trafficjamevents.com

L. Etienne Balart
Taylor Wimberly
Jones Walker LLP
201 St. Charles Ave
New Orleans, LA 70170-5100
ebalart@joneswalker.com
twimberly@joneswalker.com

Counsel for Respondents

July 6, 2021

By: /s/ Sanya Shahrabi
Sanya Shahrabi
Federal Trade Commission
Bureau of Consumer Protection

In the Matter of:
Traffice Jam Events, et al.

July 8, 2021
William Lilley

Condensed Transcript with Word Index



For The Record, Inc.
(301) 870-8025 - www.ftrinc.net - (800) 921-5555

EXHIBIT 4

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1	<p>FEDERAL TRADE COMMISSION</p> <p>In re:) Traffic Jam Events,) File No. D09395 LLC, et al.)</p> <p>Thursday, July 8, 2021</p> <p>Via Zoom Videoconference</p> <p>The above-entitled matter came on for investigational hearing, pursuant to notice, at 9:15 a.m., for the testimony of:</p> <p>WILLIAM LILLEY</p> <p>Reported by: Deborah Wehr, RPR</p>	3																																																												
2	<p>APPEARANCES:</p> <p>ON BEHALF OF THE FEDERAL TRADE COMMISSION:</p> <p>THOMAS J. WIDOR, ESQUIRE SANYA SHAHRASBI, ESQUIRE MICHAEL TANKERSLEY, ESQUIRE ELENI BROADWELL Federal Trade Commission 600 Pennsylvania Ave., NW, CC-10232 Washington, DC 20580 (202) 326-3039 Twidor@flc.gov</p> <p>ON BEHALF OF TRAFFIC JAM EVENTS:</p> <p>L. ETIENNE BALART, ESQUIRE Jones Walker, LLP 201 Saint Charles Avenue New Orleans, Louisiana 70170-5100 (504) 582-8584 ebalart@joneswalker.com</p> <p>(Appearances continued on next page.)</p>	4																																																												
1	<p>(Appearances continued.)</p> <p>ON BEHALF OF THE WITNESS:</p> <p>ROBERT R. WARCHOLA, ESQUIRE Shumaker, Loop & Kendrick, LLP Bank of America Plaza 101 East Kennedy Boulevard Suite 2800 Tampa, Florida 33602 (813) 229-7600 rwarchola@shumaker.com</p>	3																																																												
1	<p>I N D E X</p> <table border="0"> <tr> <td>EXAMINATION BY:</td> <td>PAGE</td> </tr> <tr> <td>Mr. Widor</td> <td>8, 157</td> </tr> <tr> <td>Mr. Balart</td> <td>114</td> </tr> </table> <table border="0"> <tr> <td>EXHIBIT</td> <td>DESCRIPTION</td> <td>PAGE</td> </tr> <tr> <td>No. 1</td> <td>Mailing envelope</td> <td>38</td> </tr> <tr> <td>No. 2</td> <td>Service Announcement</td> <td>48</td> </tr> <tr> <td>No. 3</td> <td>2/21/20 Important Notice</td> <td>52</td> </tr> <tr> <td>No. 4</td> <td>5/11/20 work order</td> <td>55</td> </tr> <tr> <td>No. 5</td> <td>9/3/20 work order</td> <td>63</td> </tr> <tr> <td>No. 6</td> <td>Mailing list</td> <td>64</td> </tr> <tr> <td>No. 7</td> <td>Combination Box postcard</td> <td>68</td> </tr> <tr> <td>No. 8</td> <td>Match & Win postcard</td> <td>76</td> </tr> <tr> <td>No. 9</td> <td>Regal Kia postcard</td> <td>83</td> </tr> <tr> <td>No. 10</td> <td>Crack the Vault postcard</td> <td>86</td> </tr> <tr> <td>No. 11</td> <td>License plate mailer</td> <td>89</td> </tr> <tr> <td>No. 12</td> <td>11/11/20 e-mail</td> <td>121</td> </tr> <tr> <td>No. 13</td> <td>Costal Hyundai ad</td> <td>128</td> </tr> <tr> <td>No. 14</td> <td>Cocoa Hyundai ad</td> <td>129</td> </tr> <tr> <td>No. 15</td> <td>All Star Ford ad</td> <td>132</td> </tr> <tr> <td>No. 16</td> <td>Brandon Nissan ad</td> <td>134</td> </tr> <tr> <td>No. 17</td> <td>Plainview CDJR ad</td> <td>135</td> </tr> </table> <p>(Exhibits continued on next page.)</p>	EXAMINATION BY:	PAGE	Mr. Widor	8, 157	Mr. Balart	114	EXHIBIT	DESCRIPTION	PAGE	No. 1	Mailing envelope	38	No. 2	Service Announcement	48	No. 3	2/21/20 Important Notice	52	No. 4	5/11/20 work order	55	No. 5	9/3/20 work order	63	No. 6	Mailing list	64	No. 7	Combination Box postcard	68	No. 8	Match & Win postcard	76	No. 9	Regal Kia postcard	83	No. 10	Crack the Vault postcard	86	No. 11	License plate mailer	89	No. 12	11/11/20 e-mail	121	No. 13	Costal Hyundai ad	128	No. 14	Cocoa Hyundai ad	129	No. 15	All Star Ford ad	132	No. 16	Brandon Nissan ad	134	No. 17	Plainview CDJR ad	135	4
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5	<p>1 (Exhibits continued.)</p> <p>2</p> <p>3 EXHIBIT DESCRIPTION PAGE</p> <p>4 No. 18 Rountree Moore ad 138</p> <p>5 No. 19 Energy Country Ford ad 138</p> <p>6 No. 20 Five Star Mitsubishi ad 139</p> <p>7 No. 21 Coastal Hyundai ad 141</p> <p>8 No. 22 Granger Ford ad 144</p> <p>9 No. 23 Resignation letter 144</p> <p>10 No. 24 5/11/20 e-mail 148</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	7	<p>1 MR. WIDOR: Okay. Thank you. Can we go ahead</p> <p>2 and have counsel introduce themselves for the record.</p> <p>3 MR. BALART: I'll go first. Etienne Balart</p> <p>4 here on behalf of Respondents, Traffic Jam Events, LLC,</p> <p>5 and David J. Jeansonne, II.</p> <p>6 MR. WARCHOLA: Bob Warchola with Shumaker Loop.</p> <p>7 Attending on behalf of Mr. Lilley today as a witness.</p> <p>8 MR. WIDOR: Good morning, Mr. Lilley. So we</p> <p>9 are here today to receive your sworn testimony.</p> <p>10 MR. BALART: Tom, I wanted to let Bob introduce</p> <p>11 himself before I made this statement. For the time</p> <p>12 period -- I spoke to Bob yesterday and let him know I</p> <p>13 would do this. For the time period that Mr. Lilley was</p> <p>14 an employee of Traffic Jam or an independent contractor</p> <p>15 of Traffic Jam Events, LLC, to the extent that any of</p> <p>16 your questions deal with things that I feel are</p> <p>17 privileged matters discussed amongst the group of</p> <p>18 employees or contractors by me and them, I'm going to</p> <p>19 instruct Mr. Lilley not to answer. And so I just would</p> <p>20 say Will, please, allow me a little bit of time -- I</p> <p>21 know we all want to get this thing done and finished,</p> <p>22 but just allow me a little time to listen to the</p> <p>23 question and enter that objection if I feel it's</p> <p>24 necessary. But I'm sure Tom won't invade on that</p> <p>25 privilege.</p>
6	<p>1 PROCEEDINGS</p> <p>2 - - - - -</p> <p>3 MR. WIDOR: Good morning, everyone. My name is</p> <p>4 Tom Widor. I am an attorney at the Federal Trade</p> <p>5 Commission. I represent the FTC in this matter, and</p> <p>6 I'm currently working from the FTC's Constitution</p> <p>7 Center building in Washington, D.C. Michael Tankersly</p> <p>8 and Sanya Shahrabi are co-counsel on the case and</p> <p>9 attending via Zoom. Eleni Broadwell is a paralegal on</p> <p>10 the case and is also attending via Zoom. We are</p> <p>11 conducting the deposition virtually. We'll be using</p> <p>12 Agile Law to share documents. I have also sent a PDF</p> <p>13 file with the documents via e-mail that hopefully</p> <p>14 everyone has received or will receive shortly. We are</p> <p>15 going to use Zoom to see each other by video and using</p> <p>16 Zoom's audio function.</p> <p>17 So at this point, I just want to confirm that</p> <p>18 everyone can hear and see each other. Hopefully if</p> <p>19 anyone is having trouble, they can speak up or even put</p> <p>20 in a note in the chat.</p> <p>21 MR. JEANSONNE: Tom, it's David. I'm having a</p> <p>22 problem getting on Zoom, but Etienne said he's going to</p> <p>23 send me the link.</p> <p>24 MR. WIDOR: Are you the 504 number?</p> <p>25 MR. JEANSONNE: I am.</p>	8	<p>1 MR. WIDOR: Does that make sense, Mr. Lilley?</p> <p>2 THE WITNESS: Yes, it does.</p> <p>3 STIPULATION:</p> <p>4 All counsel present stipulate that the witness shall be</p> <p>5 sworn remotely by the court reporter.</p> <p>6 - - - - -</p> <p>7 Whereupon --</p> <p>8 WILLIAM LILLEY,</p> <p>9 a witness, called for examination, having been</p> <p>10 first duly sworn, was examined and testified as</p> <p>11 follows:</p> <p>12 EXAMINATION</p> <p>13 BY MR. WIDOR:</p> <p>14 Q. Mr. Lilley, could you please state your full</p> <p>15 name for the record.</p> <p>16 A. William Charles Lilley, Jr.</p> <p>17 Q. Have you been deposed before?</p> <p>18 A. I haven't.</p> <p>19 Q. So today I'll be asking you some questions. If</p> <p>20 you don't understand a question, just please let me</p> <p>21 know before you respond, and I'll do my best to</p> <p>22 rephrase the question.</p> <p>23 The court reporter just had you take an oath</p> <p>24 this morning when we first started. Do you understand</p> <p>25 the nature of that oath?</p>

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1 A. I do.
2 **Q. So if you are not sure of an answer or don't**
3 **have a complete answer, you should still go ahead and**
4 **answer the question to the extent you can. Do you**
5 **understand?**
6 A. Yes, I do.
7 **Q. If later in the deposition you remember some**
8 **additional information or if you want to clarify an**
9 **earlier answer, please let me know and I'll give you an**
10 **opportunity to do so.**
11 A. Okay.
12 **Q. The court reporter is going to be taking down**
13 **all that is said here. Because she can only record**
14 **what is actually said, one person at a time, please**
15 **wait until I'm finished asking a question before you**
16 **start to answer or please wait if your counsel or**
17 **Mr. Balart raises an objection. In addition, because**
18 **she can only record what's actually said, please make**
19 **sure to answer each question with a verbal response**
20 **rather than a nod or um-hum or huh-uh. Instead, give a**
21 **response like a yes or a no. Make sense?**
22 A. It does.
23 MR. BALART: Deborah, are you able to pick that
24 up? Tom, there's a lag or a delay.
25 THE REPORTER: Yeah, it seemed like it was just

10

1 a little bit of a delay, but it didn't seem to skip any
2 words. It just kind of interrupted for a moment.
3 BY MR. WIDOR:
4 **Q. Hopefully we'll be able to conclude by or close**
5 **to lunch. We can take a break in the morning, and then**
6 **if it does go longer and need a break for lunch, we can**
7 **do that as well. If at any point you do need a break,**
8 **just ask and I'll make sure you get a break soon. The**
9 **only thing I would ask is if there is a question**
10 **pending that hasn't been fully answered, I'll ask you**
11 **to complete your response before we go on break. Does**
12 **that make sense?**
13 A. Yes.
14 **Q. Is there any reason you would not be able to**
15 **testify accurately or truthfully today?**
16 A. No, sir.
17 **Q. Is there any reason your memory would be faulty**
18 **today?**
19 A. No, sir.
20 **Q. Are you taking any drugs or medication that**
21 **would affect your ability to participate in the**
22 **deposition today?**
23 A. I'm not.
24 **Q. Have you consumed any alcohol in the last eight**
25 **hours?**

11

1 A. No, I haven't.
2 **Q. Do you understand all the instructions we've**
3 **just reviewed?**
4 A. Yes, I have.
5 **Q. Did you do anything to prepare for today's**
6 **deposition?**
7 A. No, I haven't.
8 **Q. Other than your attorneys, did you speak to**
9 **anyone about appearing for today's deposition?**
10 A. Just my wife.
11 **Q. Did you review any documents in preparation for**
12 **today's deposition?**
13 A. This morning I did, yes.
14 **Q. What kind of documents did you review?**
15 A. Just the exhibits that Etienne sent over to
16 Bob.
17 MR. WIDOR: Etienne, would you share those
18 exhibits with us?
19 MR. BALART: You have them. It's all the
20 exhibits that were put in the Kathleen Nolan
21 deposition.
22 BY MR. WIDOR:
23 **Q. Okay. Let's get some background from you. Can**
24 **you give us your date of birth?**
25 A. Yes. It's 06/21/1991.

12

1 **Q. And what is your current home address?**
2 A. 10435 Waterstone Drive, Riverview, Florida,
3 33578.
4 **Q. Do you have a current business address?**
5 A. Yes. It is 410 Ware Boulevard, that's Tampa,
6 Florida, 33619.
7 **Q. And what is your current occupation?**
8 A. CEO, owner.
9 **Q. What are you the CEO of?**
10 A. Strictly Results Marketing Group.
11 **Q. And what does Strictly Results Marketing Group**
12 **do?**
13 A. We do automotive advertising.
14 **Q. In addition to CEO and owner, do you hold any**
15 **other positions?**
16 A. I do not.
17 **Q. Prior to Strictly Results Marketing, where did**
18 **you work?**
19 A. Traffic Jam Events.
20 **Q. When did you start at Traffic Jam Events?**
21 A. January 3, 2013.
22 **Q. And when did you leave Traffic Jam Events?**
23 A. December 16th or 17th, 2020.
24 **Q. Why did you leave?**
25 A. My beliefs with the company and our values and

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13	<p>1 views just changed dramatically in the past year or</p> <p>2 two.</p> <p>3 Q. Can you elaborate a little bit on what you mean</p> <p>4 by views changing over the past year?</p> <p>5 A. Just things weren't as they were when I first</p> <p>6 started. You know, I mean, for about the first five to</p> <p>7 six years, it was a great opportunity, good work</p> <p>8 environment, good place to, you know, go to every day.</p> <p>9 And it just slowly kind of changed as far as just, you</p> <p>10 know, different things transpiring. It just became a</p> <p>11 real toxic work environment.</p> <p>12 Q. Why do you say it became a toxic work</p> <p>13 environment?</p> <p>14 A. Just different things going on, you know, the</p> <p>15 way that I would be treated at times, talked to, you</p> <p>16 know, as not really an equal person as, you know, maybe</p> <p>17 some of the other people that, you know, I looked up to</p> <p>18 throughout the company and just certain things that</p> <p>19 wasn't aligning with my beliefs and everything anymore.</p> <p>20 Q. Were there certain people that were treating</p> <p>21 you that way, that you felt were treating you that way?</p> <p>22 A. There was.</p> <p>23 Q. Who was that?</p> <p>24 A. Mostly David.</p> <p>25 Q. Anyone else?</p>	15
14	<p>1 A. Every so often Chad.</p> <p>2 Q. Can you give me last names for both David and</p> <p>3 Chad?</p> <p>4 A. David Jeansonne and Chad Bullock.</p> <p>5 Q. Now, when you were at Traffic Jam Events, what</p> <p>6 was your title before you left?</p> <p>7 A. I was the sales manager.</p> <p>8 Q. Did you have any other roles during your time</p> <p>9 at Traffic Jam Events?</p> <p>10 A. I did.</p> <p>11 Q. What was that?</p> <p>12 A. I was a sales rep.</p> <p>13 Q. Any other roles before that?</p> <p>14 A. No.</p> <p>15 Q. So when you first started, can you describe</p> <p>16 what your duties and responsibilities were?</p> <p>17 A. Yes. So when I first started, you know, you</p> <p>18 basically were required to dial the phone so many times</p> <p>19 a day to, you know, meet a minimum requirement daily,</p> <p>20 and we would call dealerships and speak to sales</p> <p>21 managers and general managers and owners and try to see</p> <p>22 if they had any interest in the products and services</p> <p>23 that we had to offer.</p> <p>24 Q. Who did you report to at that time?</p> <p>25 A. That was Chad. Chad Bullock.</p>	16
15	<p>1 Q. Did you have any other people that you were</p> <p>2 reporting to directly?</p> <p>3 A. We had another sales manager, Mark Kalaj, at</p> <p>4 one point in time, as well as I would report back to</p> <p>5 David eventually but not right off the bat.</p> <p>6 Q. Can you spell Mark's last name for the record.</p> <p>7 A. I would say it's K-A-L-A-J.</p> <p>8 Q. Do you know when he left the company?</p> <p>9 A. He left around 2015.</p> <p>10 Q. As sales rep, did you have any people reporting</p> <p>11 to you?</p> <p>12 A. I didn't.</p> <p>13 Q. How long were you in that position?</p> <p>14 A. A little over six years.</p> <p>15 Q. Did you become sales manager after that?</p> <p>16 A. I did, yes.</p> <p>17 Q. Can you tell us about your duties and</p> <p>18 responsibilities as a sales manager?</p> <p>19 A. Yeah, I still acted mostly like I was still a</p> <p>20 salesperson making the calls every day, but also I was</p> <p>21 responsible for helping oversee the sales team and</p> <p>22 helping them, you know, with sales calls and making</p> <p>23 sure they were -- you know, they had product knowledge</p> <p>24 and knew exactly what we were selling.</p> <p>25 Q. As a sales manager, who did you report to?</p>	17

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17	<p>1 A. I did. He would office out of the Louisiana. 2 So our branch was in Tampa in the sales office. So 3 most of our engagement was over the phone. 4 Q. What would you typically engage Jim Whelan 5 about? 6 A. Typically he handled all of our production-type 7 things. You know, whether we needed balloons or, you 8 know, certain products sent out to clients and 9 dealerships, he would help package all those up if we 10 needed to. You know, say we are having a big sale and 11 we needed to rent like a tent or something like that, 12 Jim would help kind of be the liaison on that. 13 Q. You mentioned Chad Bullock. What was Chad 14 Bullock's role at the company? 15 A. He was the vice president of sales. 16 Q. Are you familiar with Justin Brophy? 17 A. I am. 18 Q. What do you know about Justin Brophy? 19 A. Justin is the graphic design director for the 20 company. 21 Q. Did you have opportunities to work with Justin? 22 A. I did, yes. 23 Q. What kind of work would you do with him? 24 A. He would create the mail pieces. So you know, 25 if we were doing a mailer, he would, you know, help</p>	19	<p>1 A. Yes, I am. 2 Q. Who is she? 3 A. She was an ex graphic designer for the company. 4 Q. Did you have opportunities to work with her at 5 the company? 6 A. I did. 7 Q. Can you describe what kind of work you would do 8 with her? 9 A. Basic stuff. Same thing with Justin Brophy, 10 they would help create mail pieces. 11 Q. Do you know who Mariela Everst is? 12 A. Yes, I do. 13 Q. Who is that? 14 A. She was one of our -- she was basically our 15 office assistant, but also she moved into like a 16 production role where she would help, you know, pick 17 out lists and demographics and you know, bring those to 18 the sales department so we could, you know, get with 19 the dealership on where they wanted to send their 20 advertisement out to. 21 Q. In general, what kind of forms of communication 22 would you use when communicating with other employees 23 or your customers? 24 A. Most of the time we talked on the phone. That 25 was, I would say, 90 percent of our communication. But</p>
18	<p>1 kind of bring it to life if we had an idea or 2 something. 3 Q. Do you know who Chris Rivera is? 4 A. I do. 5 Q. Who is he? 6 A. He was one of the sales reps for the company. 7 Q. Would he report to you? 8 A. Yes, he would. 9 Q. What geographic region did he cover? 10 A. He covered Alabama and North Carolina. 11 Q. Are you familiar with Ty Prestwood? 12 A. Yes, I am. 13 Q. Who was he? 14 A. He was another salesperson. 15 Q. What region did he cover? 16 A. He covered Florida, and also his other state 17 was Wyoming. 18 Q. Was there sales rep assigned to covering Texas? 19 A. Yes. I was the salesperson for Texas while I 20 was a sales rep. And then we had a few different 21 people in Texas afterwards. 22 Q. Do you recall any of those names? 23 A. Elias Rivera was one of them. And then we had 24 another guy by the name of Osborne Sweat (phonetic). 25 Q. Are you familiar with Mercedes Lozano?</p>	20	<p>1 you know, other ways we would send e-mails. 2 Q. Were you provided a business phone number? 3 MR. BALART: Tom, can you repeat that question? 4 It broke up. 5 BY MR. WIDOR: 6 Q. Did you have a business phone number that you 7 used? 8 MR. WARCHOLA: I don't think we heard the 9 entire question. It was garbled. Tom, can you repeat 10 it one more time, please. 11 (Pause in the proceedings.) 12 BY MR. WIDOR: 13 Q. Let me repeat the question. Was there a 14 business phone number that you were assigned? 15 A. As far as cell phone number, Tom? 16 Q. Yes, telephone number. 17 A. No, there wasn't. We all used, if it was a 18 company phone, it was a landline headset that we had. 19 Q. Did you use any other phone numbers? 20 A. We would use our personal cell phones from time 21 to time. 22 Q. What is your personal cell phone number that 23 you used? 24 A. 813-735-2313. 25 Q. Did you use any other personal numbers?</p>

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21	<p>1 A. I did not.</p> <p>2 Q. Did you ever text message with employees or</p> <p>3 customers?</p> <p>4 A. Yes.</p> <p>5 Q. Did you ever use any form of instant messaging?</p> <p>6 A. No, I didn't.</p> <p>7 Q. Did you have a business e-mail address that you</p> <p>8 used?</p> <p>9 A. I did, yes.</p> <p>10 Q. Did you use any other e-mail accounts for</p> <p>11 business?</p> <p>12 A. I would use my personal one if our -- say like</p> <p>13 our Outlook server or something wasn't really working</p> <p>14 that well or maybe a firewall was blocking us from the</p> <p>15 dealership, we would send it from time to time from our</p> <p>16 personal e-mails.</p> <p>17 Q. What is that e-mail address?</p> <p>18 A. It's willyd45@AOL.com. So W-I-L-L-Y-D-45,</p> <p>19 @AOL.com.</p> <p>20 Q. Did you have any Gmail addresses that you used?</p> <p>21 A. No, I didn't.</p> <p>22 Q. Any other e-mail addresses, like a Yahoo! or</p> <p>23 Hotmail?</p> <p>24 A. No, sir.</p> <p>25 Q. Are you familiar with Dropbox?</p>	23	<p>1 Q. What does this database do?</p> <p>2 A. It holds records for dealerships. So you know,</p> <p>3 we would have the dealership name, phone number,</p> <p>4 address, the main point of contact of the person we</p> <p>5 wanted to call and e-mail address in there.</p> <p>6 Q. Any other kind of information tracked in Act!?</p> <p>7 A. We would have a history tab, you know, to where</p> <p>8 we could kind of take notes to where we were at with</p> <p>9 the deal.</p> <p>10 Q. Besides Traffic Jam Events, did you work for</p> <p>11 any other companies related to David Jeansonne or</p> <p>12 Traffic Jam Events?</p> <p>13 A. I did not.</p> <p>14 Q. Are you familiar with Platinum Plus Printing?</p> <p>15 A. Yes, I am.</p> <p>16 Q. What do you know about Platinum Plus Printing?</p> <p>17 A. It was our print provider for the longest time.</p> <p>18 You know, we used to buy all of our direct mail from</p> <p>19 there. You know, David owned that as well as Traffic</p> <p>20 Jam.</p> <p>21 Q. Are you familiar with a person by the name of</p> <p>22 David Stromeyer?</p> <p>23 A. I am.</p> <p>24 Q. Who is he?</p> <p>25 A. He is the sales rep for Platinum Plus Printing.</p>
22	<p>1 A. Yes, I am.</p> <p>2 Q. Did you use Dropbox while at Traffic Jam</p> <p>3 Events?</p> <p>4 A. No, I didn't.</p> <p>5 Q. Do you know if people at the company used</p> <p>6 Dropbox?</p> <p>7 A. Yes. The graphic design department would use</p> <p>8 it to store documents.</p> <p>9 Q. Are you familiar with Adobe Sign?</p> <p>10 A. Yes.</p> <p>11 Q. What is it?</p> <p>12 A. It's an electronic [sic] system that we would</p> <p>13 send agreements or invoices over and have customers</p> <p>14 sign them.</p> <p>15 Q. Was there any other kind of internet-based</p> <p>16 software that Traffic Jam Events used to conduct</p> <p>17 business?</p> <p>18 A. In regards to the e-mail?</p> <p>19 Q. Just general business.</p> <p>20 A. We had a database system that we used that we</p> <p>21 would dial off of.</p> <p>22 Q. What's that database system called?</p> <p>23 A. It's called Act!, A-C-T.</p> <p>24 Q. Is that provided by a third party?</p> <p>25 A. Yes.</p>	24	<p>1 Q. Are you familiar with Julie Mosher,</p> <p>2 M-O-S-H-E-R?</p> <p>3 A. Yes.</p> <p>4 Q. Who is she?</p> <p>5 A. She was -- I don't remember her exact title,</p> <p>6 but she was similar to kind of like a Mariela in our</p> <p>7 office. She was like a production coordinator. She</p> <p>8 would, you know, do job scheduling for the print</p> <p>9 facility and everything.</p> <p>10 Q. Do you know who Carl Hensley is?</p> <p>11 A. If it's the same gentleman I'm thinking of, he</p> <p>12 goes by Butch, but maybe it's Carl. But last name</p> <p>13 Hensley, and yes, I do.</p> <p>14 Q. How do you know him?</p> <p>15 A. He was also a sales rep for Platinum Plus</p> <p>16 Printing.</p> <p>17 Q. Would you have any interactions with Butch?</p> <p>18 A. We did from time to time. I mean, it was very</p> <p>19 seldom. You know, some engagements were, you know, at</p> <p>20 the company Christmas parties we would have every year.</p> <p>21 Other times, you know, maybe a handful of times we</p> <p>22 would speak on the phone about business and how things</p> <p>23 are going.</p> <p>24 Q. Did you have any interactions with David</p> <p>25 Stromeyer?</p>

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25	<p>1 A. I did, yes.</p> <p>2 Q. What did those interactions involve?</p> <p>3 A. Mostly he became a personal friend and you</p> <p>4 know, we would talk about the family and stuff like</p> <p>5 that. But same thing as Butch, you know, we would talk</p> <p>6 about business, how his side of the things were going</p> <p>7 and vice versa, how we were doing on our end, but</p> <p>8 mainly family stuff.</p> <p>9 Q. Do you know who Joe Reimer is, R-E-I-M-E-R?</p> <p>10 A. Yes.</p> <p>11 Q. Who is he?</p> <p>12 A. He was also one of the owners of Platinum Plus</p> <p>13 Printing.</p> <p>14 Q. Did you have any interactions with him?</p> <p>15 A. I did.</p> <p>16 Q. What did those interactions involve?</p> <p>17 A. Same kind of thing with David Stromeyer. You</p> <p>18 know, we got on a personal level and you know, would</p> <p>19 talk a lot about, you know, family stuff and whatnot,</p> <p>20 but also a lot of stuff we talked about was, you know,</p> <p>21 jobs at the print facility. You know, sometimes David</p> <p>22 was okay with us calling Joe and asking him for a favor</p> <p>23 if he could, you know, get us certain dealerships mail</p> <p>24 out faster than, you know, our normal production</p> <p>25 timelines were.</p>	27	<p>1 A. I did.</p> <p>2 Q. What was that role?</p> <p>3 A. Well, that was part of what we sold. So that</p> <p>4 was one of our job duties is, you know, when you call</p> <p>5 dealerships, you know, you wanted to identify if they</p> <p>6 did direct mail and also if they had done staffed</p> <p>7 events before. And then, you know, if they did do</p> <p>8 staffed events, then, you know, we would see if they</p> <p>9 would be interested in giving us an opportunity. So we</p> <p>10 would sell the staffed events and then, you know, the</p> <p>11 team would go out and fulfill that agreement for us.</p> <p>12 Q. Would you actually participate in the staffed</p> <p>13 event?</p> <p>14 A. No, I never actually did work on one.</p> <p>15 Q. Let's talk about direct mail marketing. What</p> <p>16 is your understanding of direct mail marketing?</p> <p>17 A. So you know, there's several different types of</p> <p>18 mail pieces that we would offer. So you know, some of</p> <p>19 the dealerships we talked to, they wanted to do, we</p> <p>20 call it a saturation mail piece, and they would send</p> <p>21 out a bunch of mailers, you know, to a certain</p> <p>22 demographic of people. You know, others, they would</p> <p>23 want to do say like a trade-in mailer. They needed to</p> <p>24 sell new cars and they were wanting to trade people out</p> <p>25 of their old cars. We would also offer like credit</p>
26	<p>1 Q. Now, what kind of products or services did</p> <p>2 Traffic Jam Events offer?</p> <p>3 A. I guess I don't want to, you know, be too</p> <p>4 long-winded about it. We had several different things,</p> <p>5 but as far as like you mean mailers and the staffed</p> <p>6 event promotions that we did?</p> <p>7 Q. Yeah, sure. Can you elaborate on those?</p> <p>8 A. Yeah. So we offered direct mail pieces for the</p> <p>9 dealerships. So you know, there was different themes</p> <p>10 and different type of hooks that would go in there.</p> <p>11 And then also we offered staffed events where we would</p> <p>12 send out a group of salespeople and managers to go do</p> <p>13 the sales. They, you know, would be basically</p> <p>14 contracted by the dealership for a week. And then, you</p> <p>15 know, also we offered like radio spots at one point in</p> <p>16 time and newspaper inserts.</p> <p>17 Q. Let's talk briefly about staffed events. Can</p> <p>18 you explain what a staffed event is?</p> <p>19 A. Yes. So it's usually a five- to ten-day event</p> <p>20 where, you know, we would send out a bulk amount of</p> <p>21 mail pieces in a certain geographic area, and we would</p> <p>22 send in a couple managers and, you know, a handful of</p> <p>23 salespeople to help sell cars for the dealership for</p> <p>24 that week.</p> <p>25 Q. Did you play any role with staffed events?</p>	28	<p>1 score mailers, you know, where we would go after people</p> <p>2 within a certain credit bracket and offer them, you</p> <p>3 know, a firm offer of credit.</p> <p>4 Q. So you talked about saturation mailers. Do you</p> <p>5 know what a targeted mailer is?</p> <p>6 A. Yes.</p> <p>7 Q. What is that?</p> <p>8 A. That was the last two that I was just</p> <p>9 explaining, the buyback letter and then also the credit</p> <p>10 score mailers.</p> <p>11 Q. Were there any other types of direct mail</p> <p>12 marketing pieces?</p> <p>13 A. We did bankruptcy letters, lease return</p> <p>14 letters, basically it.</p> <p>15 Q. What are sample ads?</p> <p>16 A. Sample ads would be like mail pieces that we</p> <p>17 are trying to send to dealerships to, you know, get</p> <p>18 them to respond and you know, say how much is this or,</p> <p>19 hey, I really like this mail piece, can you do this for</p> <p>20 me. So we would make samples of them.</p> <p>21 Q. Would the sales team be directed or recommend</p> <p>22 certain ads to dealers?</p> <p>23 A. Usually we would say, you know, hey, these</p> <p>24 pieces are working the best, yes.</p> <p>25 Q. Did dealers ever request specific ads?</p>

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29	<p>1 A. Yes.</p> <p>2 Q. Did Traffic Jam Events maintain a library of</p> <p>3 the various ads they had available?</p> <p>4 A. We did.</p> <p>5 Q. Would a dealer be able to just request access</p> <p>6 to that full library?</p> <p>7 A. It wasn't like a cloud-based library. If you</p> <p>8 went on our website, we had a few different samples on</p> <p>9 there, but majority of the time we would send like our</p> <p>10 sample packets via Fed Ex to the dealership.</p> <p>11 Q. Was there a particular type of ad that you</p> <p>12 would recommend?</p> <p>13 A. Gosh, over the years, it varied, yes.</p> <p>14 Q. What kind of factors would play into what you</p> <p>15 would recommend?</p> <p>16 A. Just depending on success rates, you know, if</p> <p>17 another dealership did good off of one of our ads, that</p> <p>18 would generally be one that we would try to sell to</p> <p>19 somebody else.</p> <p>20 Q. How would you track whether a mailer was</p> <p>21 successful?</p> <p>22 A. A lot of times it was just word of mouth from</p> <p>23 what the dealership said. If they called up, you know,</p> <p>24 midway through the sale or after the sale and said,</p> <p>25 hey, that mailer did really good, you know, can we run</p>	31	<p>1 Q. Do you recall any of those conversations around</p> <p>2 certain ads?</p> <p>3 A. It varied. We usually always had a morning</p> <p>4 meeting, so we would -- everybody around the table</p> <p>5 would, you know, spitball ideas and everybody had</p> <p>6 different clients and different success stories and</p> <p>7 stuff. So we would share those numbers.</p> <p>8 Q. Were there any particular ads that had</p> <p>9 consistently good response rates?</p> <p>10 A. Yeah, like, we had a couple that had, you know,</p> <p>11 better response rates than others.</p> <p>12 Q. Do you recall what those pieces are?</p> <p>13 A. Mainly the saturation mailers had the best</p> <p>14 response rates.</p> <p>15 Q. Were there any specific types of saturation</p> <p>16 mailers?</p> <p>17 A. We had a product called a combination box that</p> <p>18 always performed really good in different markets we</p> <p>19 put it in.</p> <p>20 Q. Did you receive any kind of training while you</p> <p>21 were at Traffic Jam Events?</p> <p>22 A. Yes, I did.</p> <p>23 Q. What was that?</p> <p>24 A. We did a lot of training. We used to go see a</p> <p>25 sales training company that is based out of Tampa.</p>
30	<p>1 it again next month, you know, a lot of times that</p> <p>2 would be kind of how we would even, you know, know if</p> <p>3 it was doing good or not.</p> <p>4 Q. Did Traffic Jam Events try to track success</p> <p>5 rates any other way?</p> <p>6 A. We did, yes.</p> <p>7 Q. What were those methods?</p> <p>8 A. So a lot of our mail pieces had call centers on</p> <p>9 them. So we would have like a dashboard that you could</p> <p>10 log into and be able to track the response rates of the</p> <p>11 sale.</p> <p>12 Q. So what does response rate mean?</p> <p>13 A. So when I use response rate, what I'm saying is</p> <p>14 how many people actually engage with the mailer,</p> <p>15 whether they called or went on -- there's usually</p> <p>16 personalized websites that they can go onto and then</p> <p>17 set an appointment off the total number of what those</p> <p>18 added up to.</p> <p>19 Q. In your experience, do you know what a good</p> <p>20 response rate would be?</p> <p>21 A. Anywhere, you know, it would be a percent and a</p> <p>22 half to 2 percent is a good response rate.</p> <p>23 Q. Would you discuss response rate with other</p> <p>24 employees at the company?</p> <p>25 A. We did.</p>	32	<p>1 They are called Sandler Training. And then, you know,</p> <p>2 David, Chad, they, you know, trained us, and then, you</p> <p>3 know, we would have different videos that we would</p> <p>4 subscribe to or something that we would get our sales</p> <p>5 training from.</p> <p>6 Q. So what kind of training did Sandler provide?</p> <p>7 A. It was sales training. They believe in more of</p> <p>8 a less invasive approach to sales. So it was a little</p> <p>9 different mentality than, you know, kind of what we,</p> <p>10 you know, you are brought up thinking with sales and</p> <p>11 stuff like that. It was more of a softer sales</p> <p>12 approach and asking more questions to the customers and</p> <p>13 everything.</p> <p>14 Q. Would you do any kinds of trainings with your</p> <p>15 sales staff?</p> <p>16 A. I did.</p> <p>17 Q. What would that involve?</p> <p>18 A. More or less I would, you know, basically, you</p> <p>19 know, kind of show them how I would do certain things,</p> <p>20 whether it was, you know, build a sample package, you</p> <p>21 know, how I would work a certain contact in the system</p> <p>22 as far as, you know, who you start with first, if they</p> <p>23 don't answer, who you go to next. And then just really</p> <p>24 just explaining kind of what worked for me when I was,</p> <p>25 you know, in their seat the most.</p>

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33	<p>1 Q. Did you ever receive any kind of compliance</p> <p>2 training while at the company?</p> <p>3 A. I didn't, no.</p> <p>4 Q. Did you ever receive any training on consumer</p> <p>5 protection laws?</p> <p>6 A. No, sir, I didn't.</p> <p>7 Q. Any training on advertising laws?</p> <p>8 A. No. We would -- you know, certain people would</p> <p>9 be in different states throughout the country, so, you</p> <p>10 know, some of the things we would be aware of like,</p> <p>11 hey, you are not allowed to do this, you are not</p> <p>12 allowed to do that. But other than that, you know, we</p> <p>13 didn't really.</p> <p>14 Q. Prior to this case, were you familiar with the</p> <p>15 FTC Act?</p> <p>16 A. No, I wasn't.</p> <p>17 Q. Are you familiar with the Truth in Lending Act?</p> <p>18 A. I can't say that I am.</p> <p>19 Q. Do you know what Traffic Jam Events would do to</p> <p>20 ensure compliance with any state laws?</p> <p>21 A. We would, you know, from time to time,</p> <p>22 depending on what state it was, some states have, you</p> <p>23 know, an AG's office or a compliance office that we</p> <p>24 could send our mailers to, and they would, you know,</p> <p>25 review it and let us know what kind of changes that</p>	35	<p>1 legal compliance?</p> <p>2 A. There was a handful of them, you know, a decent</p> <p>3 bit that would actually review or had, you know, maybe</p> <p>4 somebody that was, you know, on their compliance team</p> <p>5 that they could send us back -- like I was mentioning</p> <p>6 the dealer group in Texas, they would send us back</p> <p>7 changes or something like that. But we always kind of</p> <p>8 left it up to the dealer to, you know, let us know if</p> <p>9 there was, you know, certain rules or compliance laws</p> <p>10 that, you know, they needed to abide by since each</p> <p>11 state was different.</p> <p>12 Q. Let me wrap up with a few more general</p> <p>13 questions and then we can turn to some of the</p> <p>14 advertisements I want to ask you about. In general,</p> <p>15 did you have any role in developing advertisements?</p> <p>16 A. I did.</p> <p>17 Q. What kind of role did you serve?</p> <p>18 A. From time to time we would, you know, get a</p> <p>19 mail piece maybe in our mailbox or something like that</p> <p>20 from another dealership that we would bring into the</p> <p>21 office and, you know, ask the designers to recreate it</p> <p>22 and you know, maybe put our little twist on it so it's</p> <p>23 not exactly like the competition.</p> <p>24 Q. Who else would be involved in the design</p> <p>25 process?</p>
34	<p>1 needed to be made.</p> <p>2 Q. Are you aware of any instances where a state</p> <p>3 rejected or sent back a mailer because there were</p> <p>4 advertising issues?</p> <p>5 A. Yes.</p> <p>6 Q. Can you give us an example?</p> <p>7 A. One of which, you know, dealerships in Texas we</p> <p>8 would work with, they have like a marketing team that</p> <p>9 worked for the dealership, and you know, we would send</p> <p>10 over an ad and then they would, you know, send back and</p> <p>11 say, hey, these are some of the changes that we need to</p> <p>12 be made. And we would make those changes and then send</p> <p>13 it back for their approval.</p> <p>14 Q. Are you aware of any instance where a state</p> <p>15 sent back an advertisement because the credit offer</p> <p>16 wasn't clearly or conspicuously disclosed?</p> <p>17 MR. BALART: Talking about while he was</p> <p>18 employed by Traffic Jam?</p> <p>19 BY MR. WIDOR:</p> <p>20 Q. While employed at Traffic Jam Events?</p> <p>21 A. Not to my knowledge, no.</p> <p>22 Q. Would you ever ask the dealer to review the ads</p> <p>23 for legal compliance?</p> <p>24 A. No.</p> <p>25 Q. Do you know if any dealers reviewed the ads for</p>	36	<p>1 A. Myself, David, Chad.</p> <p>2 Q. Was there any kind of review or approval</p> <p>3 process to get that kind of ad developed?</p> <p>4 A. When you say like review or approval process,</p> <p>5 meaning?</p> <p>6 Q. So just to kind of follow up on your example,</p> <p>7 so if you came in to the office with an ad that you had</p> <p>8 got in the mail the other day, what would be the next</p> <p>9 step?</p> <p>10 A. Next step is we would send it over to the</p> <p>11 designers. You know, we would get either David or</p> <p>12 Chad's approval first, say, hey, do you mind if we get</p> <p>13 one of the designers to, you know, mock this piece up</p> <p>14 or make a sample of it for us. And if they said yes,</p> <p>15 then the designers would then build a mail piece and</p> <p>16 then send over for all of us to review to make sure</p> <p>17 everything was in there that we liked.</p> <p>18 Q. Was there any kind of documentation that</p> <p>19 accompanied the design of a new ad?</p> <p>20 A. Usually if we did it, sometimes we would do it</p> <p>21 via e-mail or on the phone. So either or we would call</p> <p>22 them and tell them what we like or e-mail it.</p> <p>23 Q. Let's continue through the sales process. Can</p> <p>24 you tell me what would happen once a dealer decided to</p> <p>25 go forward with a direct mail piece?</p>

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1 A. Yes. So if they said, hey, I want to do 20,000
 2 mailers, we would basically, you know, get with
 3 accounting, have them draw up an invoice or a work
 4 order. We would send it over to the dealer just to
 5 approve the dollar amount that they are spending for
 6 it. And then at that point, once they had signed off
 7 and approved it, then that would go into production
 8 where Mariela would then create, you know, the job in
 9 the system. And then the designers would start
 10 building the mail piece based on, you know, what mailer
 11 we sold the client.
 12 **Q. Would there be any kind of documentation that**
 13 **would be created?**
 14 A. So the work order that Mariela would do, we had
 15 a company work order that she would fill out and then
 16 she would submit to the print facility.
 17 **Q. Tell us about the role of the print facility in**
 18 **the production process.**
 19 A. So they were basically the fulfillment center
 20 at that point. So once we created everything and, you
 21 know, got it approved by the dealership and everything,
 22 we would then send it off to the print facility. They
 23 would print the flyer and then ship it for us.
 24 **Q. Do you recall what print facilities were used**
 25 **by Traffic Jam Events?**

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1 A. Platinum Plus Printing was the main one for a
 2 while. And then we had Lewis Color was another one.
 3 G2PN was another one. We used Midlantic was another
 4 one. We used MBI and also we used a printer out of
 5 California, ARD Printing, and then another one over in
 6 Missouri which was called JS Direct.
 7 **Q. GP2 Printing, is that one of the companies you**
 8 **had mentioned?**
 9 A. G2PN, yes.
 10 **Q. Where is G2PN based?**
 11 A. They are in Florida.
 12 **Q. Does MBI Printing have a full name?**
 13 A. Not that I'm aware of. To my knowledge, it's
 14 just MBI.
 15 **Q. Where is MBI based?**
 16 A. They are in Florida as well.
 17 **Q. Where is JS Direct based?**
 18 A. They are the ones in Missouri.
 19 **Q. How would the company decide which printer to**
 20 **use?**
 21 A. Usually David would dictate where it goes.
 22 **Q. Let me show you what I'm going to mark as**
 23 **Exhibit 1.**
 24 **(Lilley Deposition Exhibit Number 1 was marked**
 25 **for identification.)**

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1 BY MR. WIDOR:
 2 **Q. Let me know when you see it on your screen.**
 3 MR. WARCHOLA: The document on the screen is
 4 kind of small, but I did print out the exhibits that
 5 you sent to me. So I can probably match them up. So
 6 the first exhibit is going to have five pages?
 7 MR. WIDOR: Yes.
 8 MR. BALART: Tom, hold on. Let me catch up.
 9 For some reason my Agile has stopped working. Let me
 10 relaunch. Is it still showing me as in Agile, Tom?
 11 MR. WIDOR: Yeah, it does show you in here.
 12 MR. BALART: Let me see if I can find why it's
 13 not -- there we go. I got you.
 14 MR. WARCHOLA: Did you Bates number the
 15 documents?
 16 MR. WIDOR: No, not all the documents are Bates
 17 numbered.
 18 MR. WARCHOLA: What I'm going to do is it looks
 19 like this is going to be Exhibit Number 1. So I'm
 20 going to write on Exhibit Number 1, then I'm just going
 21 to put depo page 1 of 5, 2 of 5, 3 of 5, 4 of 5, 5 of 5
 22 so I just have a record of it if there's any question.
 23 MR. WIDOR: Sure. I don't know if you could
 24 have that -- it will stamp automatically in the version
 25 on Agile.

40

1 BY MR. WIDOR:
 2 **Q. Let me know now if you have had time to review**
 3 **the document.**
 4 A. I have.
 5 **Q. Do you recognize this?**
 6 A. I do.
 7 **Q. What do you know about it?**
 8 MR. WARCHOLA: I'm going to object to the form
 9 of the question.
 10 BY MR. WIDOR:
 11 **Q. Do you want to go ahead and answer or do you**
 12 **want me to rephrase?**
 13 A. I guess when you say what do I know about it,
 14 you mean as far as? It was an envelope that the mail
 15 pieces were sent out in at one point in time with the
 16 company.
 17 **Q. Do you know when this envelope was created?**
 18 A. I believe around March of last year.
 19 **Q. Do you know what prompted its creation?**
 20 A. Yeah, during everything with, you know, the
 21 pandemic and whatnot, you know, David wanted to put,
 22 you know, some stuff out to the market that, you know,
 23 people could relate to as far as, you know, the
 24 COVID-19 and whatnot.
 25 **Q. Do you know who created the envelope?**

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41	<p>1 A. As far as the designer or idea?</p> <p>2 Q. Let's start with the idea for the envelope.</p> <p>3 A. David.</p> <p>4 Q. Do you know who designed the envelope?</p> <p>5 A. I believe it was Justin. Justin Brophy, the</p> <p>6 graphics director.</p> <p>7 Q. Do you know if anyone else was involved in</p> <p>8 developing the envelope?</p> <p>9 A. No, I do not.</p> <p>10 Q. Did you play any role in developing the</p> <p>11 envelope?</p> <p>12 A. I didn't, no.</p> <p>13 Q. Do you know if Chad Bullock had any role in</p> <p>14 developing the envelope?</p> <p>15 A. I can't say yes or no on that. I don't know.</p> <p>16 Q. Do you know if any dealers had a role in</p> <p>17 developing the envelope?</p> <p>18 A. To my knowledge, I don't think so.</p> <p>19 Q. Do you recall anything else about the design</p> <p>20 process for this envelope?</p> <p>21 A. I don't.</p> <p>22 Q. Do you know whether it was ever reviewed for</p> <p>23 compliance?</p> <p>24 A. No, I don't know that.</p> <p>25 Q. Let me tie this up. How do you know that David</p>	43	<p>1 you know, one of our clients that we were doing, you</p> <p>2 know, a bunch of sales for down here in Florida, and</p> <p>3 you know, I remember David coming up with an idea of</p> <p>4 what he wanted to, you know, put out for a particular</p> <p>5 sale that we were doing for them.</p> <p>6 BY MR. WIDOR:</p> <p>7 Q. Do you know on the envelope who came up with</p> <p>8 the language "Important COVID-19 economic stimulus</p> <p>9 documents enclosed"?</p> <p>10 A. Yes, I believe that was David.</p> <p>11 Q. What is the basis for your belief?</p> <p>12 A. Just based on those conversations I remember,</p> <p>13 you know, him dictating, you know, how he wanted the</p> <p>14 mailer and everything.</p> <p>15 Q. Do you know who came up with the</p> <p>16 "time-sensitive fast-tracked mail" language?</p> <p>17 A. I did not. That verbiage had been on our</p> <p>18 envelopes for as long as I could remember being with</p> <p>19 the company.</p> <p>20 Q. Do you know whether this envelope was ever</p> <p>21 approved by the U.S. Postal Service?</p> <p>22 A. I don't, because a lot of times I wasn't privy</p> <p>23 to that. You know, normally it would be the print</p> <p>24 facility or something that would get them vetted.</p> <p>25 Q. Let's turn to page 2 of the exhibit. Let me</p>
42	<p>1 came up with the idea?</p> <p>2 A. We would have, you know, various calls with,</p> <p>3 you know, everybody, whether it was the whole sales</p> <p>4 department or, you know, it was just, you know, the</p> <p>5 hierarchy, you know, leadership roles within the</p> <p>6 company, you know, and he would sometimes, you know,</p> <p>7 call everybody and say, hey, this is what I'm thinking.</p> <p>8 And you know, then at that point in time, like I</p> <p>9 mentioned prior, the designers would get the mail piece</p> <p>10 and they would build it and send over, you know, for</p> <p>11 final approval. But normally that's how those</p> <p>12 processes worked.</p> <p>13 Q. How do you know Justin Brophy was the one who</p> <p>14 created the design?</p> <p>15 A. The only reason I say Justin, to the best of my</p> <p>16 knowledge, it's because any time it was like a brand</p> <p>17 new product or design, normally him being the graphics</p> <p>18 director, he was our best designer and he would build</p> <p>19 the mail pieces.</p> <p>20 Q. You mentioned having some conversations. Do</p> <p>21 you recall any specific conversations about this idea?</p> <p>22 MR. WARCHOLA: Object to the form.</p> <p>23 THE WITNESS: I vaguely remember that, I mean,</p> <p>24 it was right during the pandemic. You know, it was one</p> <p>25 of those things that was kind of like on the fly for,</p>	44	<p>1 know when you have had a chance to review.</p> <p>2 A. Okay.</p> <p>3 Q. Did you have any role in designing this insert?</p> <p>4 A. I did not, no.</p> <p>5 Q. Do you know who would have been involved in</p> <p>6 designing it?</p> <p>7 A. Yeah, David and Justin had come up with this</p> <p>8 one.</p> <p>9 Q. What is the basis for you saying that it was</p> <p>10 David and Justin?</p> <p>11 A. Well, this was the mail piece that went into</p> <p>12 the Exhibit 1 that you had shown. This was the flyer</p> <p>13 that was inserted in that envelope, so it was a package</p> <p>14 deal when we first came out with it.</p> <p>15 Q. Do you recognize the watermark in the top left</p> <p>16 corner of the insert?</p> <p>17 A. You mean the eagle?</p> <p>18 Q. Yes.</p> <p>19 A. Yes, I do.</p> <p>20 Q. Do you know what that is?</p> <p>21 A. Forgive me, it's like an official stamp for the</p> <p>22 United States.</p> <p>23 Q. What is your answer based on?</p> <p>24 A. I just -- based on looking at it, you know, the</p> <p>25 American eagle.</p>

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1 **Q. Do you know where the watermark came from?**
 2 A. I don't.
 3 **Q. Can I direct you to page 4 of the document.**
 4 **Let me know when you have had a chance to review.**
 5 A. I have.
 6 **Q. Do you know what the purpose of this is?**
 7 MR. BALART: The purpose of what, Tom? The
 8 page?
 9 BY MR. WIDOR:
 10 **Q. Let me step back. Strike that.**
 11 **Do you recognize what this shows?**
 12 A. Yes, the Stimulus Relief Program.
 13 **Q. Do you know where the Stimulus Relief Program**
 14 **came from?**
 15 A. Yes, that was part of the initial design that
 16 David and Justin had came up with this particular sale.
 17 **Q. Do you know what the intent of this document**
 18 **is?**
 19 MR. BALART: Object to the form. Whose intent?
 20 BY MR. WIDOR:
 21 **Q. Do you know what the purpose of this document**
 22 **is?**
 23 A. Generally it would be to, you know, offer
 24 somebody some sort of discount or savings off of a
 25 vehicle.

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1 **Q. In your view, is this supposed to look like a**
 2 **check?**
 3 MR. BALART: Objection to the form. Tom, are
 4 you asking him his view as a reasonable consumer or as
 5 Will Lilley? Can you clarify?
 6 BY MR. WIDOR:
 7 **Q. In your experience, Mr. Lilley, does this look**
 8 **like a check?**
 9 MR. BALART: Why don't you just ask him if he
 10 thinks it looks like a check.
 11 THE WITNESS: It looks like a check.
 12 BY MR. WIDOR:
 13 **Q. Do you know if this mailer was designed to look**
 14 **like COVID-19 stimulus relief?**
 15 A. To my knowledge, you know, we've done mail
 16 pieces before where, you know, we would give, you know,
 17 vouchers and discounts to customers for their vehicle
 18 purchases. So it just looked very similar to what
 19 we've done in the past, just maybe the verbiage is
 20 different.
 21 **Q. Do you know if the mailer was designed to look**
 22 **like it was affiliated with the government?**
 23 MR. BALART: Object to the form of the
 24 question. But you can answer, Will.
 25 THE WITNESS: I can't really, you know, confirm

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1 or deny that, you know, it was supposed to be made to
 2 look like it came from the government, you know. It
 3 does look like, you know, it's official documents
 4 coming in the mail, absolutely.
 5 BY MR. WIDOR:
 6 **Q. Do you think this looks like an official**
 7 **document?**
 8 MR. BALART: Official what? An official
 9 government document? An official Traffic Jam document?
 10 An official dealer document? Could you clarify,
 11 please.
 12 BY MR. WIDOR:
 13 **Q. What is your understanding of the word**
 14 **"official"?**
 15 A. When I say official, just as far -- you know,
 16 in regards to some of the other mail pieces we did, you
 17 know, where it had different, you know, color schemes
 18 and stuff like that. This was more just a pretty
 19 generic, bland piece of paper that, you know, customers
 20 received.
 21 **Q. Do you recall any discussions about the phrase**
 22 **"stimulus relief program"?**
 23 A. Outside of this, no.
 24 **Q. Let me show you what I'm going to mark as**
 25 **Exhibit 2.**

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1 **(Lilley Deposition Exhibit Number 2 was marked**
 2 **for identification.)**
 3 BY MR. WIDOR:
 4 **Q. As I'm doing this, I just had one other**
 5 **question. Did you ever have any discussions with other**
 6 **Traffic Jam Events employees about making**
 7 **advertisements look like official government documents?**
 8 A. No, sir, I didn't.
 9 **Q. I've just revealed what has been marked as**
 10 **Exhibit 2. Let me know when you have had a chance to**
 11 **look at this.**
 12 A. (Reviewing document.)
 13 **Q. Mr. Lilley, have you had a chance to review?**
 14 A. I have, yes.
 15 **Q. Do you recognize this document?**
 16 A. I do.
 17 **Q. How do you recognize it?**
 18 A. This was a service mail piece that was created,
 19 you know, based on the premise of the original
 20 document, that Exhibit 1 that you showed.
 21 **Q. Do you know who was involved in creating this**
 22 **piece?**
 23 A. Again, this is one that, you know, Justin and
 24 David had created.
 25 **Q. Do you know if anyone else was involved in**

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49	<p>1 creating this?</p> <p>2 A. I do not, no.</p> <p>3 Q. What do you know about the e-mail address</p> <p>4 there, info@TrafficJamEvents.com?</p> <p>5 A. It looks like one of our e-mails if customers</p> <p>6 were like surfing our website or something, they could,</p> <p>7 you know, respond or e-mail that directly to receive</p> <p>8 more info, you know, regarding an event or something</p> <p>9 like that.</p> <p>10 Q. Do you know who would receive this kind of</p> <p>11 e-mail?</p> <p>12 A. It would, to my knowledge, go directly to</p> <p>13 Justin, David and Chad if somebody responded to it.</p> <p>14 MR. BALART: Will, I think he's asking who</p> <p>15 receives it, like where does it go. For instance, in</p> <p>16 the To" list, it says Grant Bibb. Who and what is</p> <p>17 Grant Bibb?</p> <p>18 THE WITNESS: Oh, that would be a dealer or a</p> <p>19 general manager for a dealership.</p> <p>20 MR. BALART: Thanks.</p> <p>21 BY MR. WIDOR:</p> <p>22 Q. To follow up on that, who had access to this</p> <p>23 e-mail address?</p> <p>24 A. That was Justin, David and Chad. They would</p> <p>25 receive them.</p>	51	<p>1 A. To the best of my knowledge, what I had</p> <p>2 mentioned earlier where just a regular plain sheet of</p> <p>3 paper, you know, that, you know, just a kind of bland</p> <p>4 type of deal.</p> <p>5 Q. Do you know if any dealers used this</p> <p>6 advertisement?</p> <p>7 A. The advertisement as far as the Exhibit 1, the</p> <p>8 first one?</p> <p>9 Q. No, the service mailer that was advertised in</p> <p>10 this e-mail.</p> <p>11 A. No, not to my knowledge. We didn't sell any of</p> <p>12 these.</p> <p>13 Q. Did you promote this ad to any dealers?</p> <p>14 MR. BALART: Isn't that what Exhibit 2 is?</p> <p>15 THE WITNESS: Repeat it.</p> <p>16 BY MR. WIDOR:</p> <p>17 Q. Did you specifically promote this ad to any</p> <p>18 dealers?</p> <p>19 A. We did, yes.</p> <p>20 Q. Do you recall any response from dealers about</p> <p>21 the ad?</p> <p>22 A. No. It was such a weird time, you know, in our</p> <p>23 industry and country, that a lot of people, you know,</p> <p>24 kind of went off the radar and didn't really respond</p> <p>25 much to stuff like this.</p>
50	<p>1 MR. BALART: Tom, for clarity, you are talking</p> <p>2 about the info@TrafficJamEvents.com e-mail?</p> <p>3 BY MR. WIDOR:</p> <p>4 Q. Yes, who would monitor that e-mail address,</p> <p>5 right.</p> <p>6 A. Yes.</p> <p>7 Q. Do you have access to this e-mail address?</p> <p>8 A. No, I didn't have access to it.</p> <p>9 Q. Did you have any -- did you play any role in</p> <p>10 sending out these kinds of e-mails?</p> <p>11 A. No. Justin would normally create the body of</p> <p>12 the e-mail or the verbiage and then send it out.</p> <p>13 Q. I would like to direct you to page 2 of the</p> <p>14 e-mail. Let me know when you have had a chance to</p> <p>15 review.</p> <p>16 A. Okay. I have it, Tom.</p> <p>17 Q. Have you had a chance to review?</p> <p>18 A. Yes, I have.</p> <p>19 Q. Do you know who developed this sentence?</p> <p>20 MR. WARCHOLA: If you are talking about 2 --</p> <p>21 THE WITNESS: Okay, the rectangular box? I do</p> <p>22 not.</p> <p>23 BY MR. WIDOR:</p> <p>24 Q. Do you have any understanding of what "official</p> <p>25 letter format" would mean?</p>	52	<p>1 Q. Let me move on to what I'm going to designate</p> <p>2 as Exhibit 3.</p> <p>3 (Lilley Deposition Exhibit Number 3 was marked</p> <p>4 for identification.)</p> <p>5 BY MR. WIDOR:</p> <p>6 Q. Let me know when you have had a chance to see</p> <p>7 this document.</p> <p>8 A. I apologize, Tom, were we looking at this one?</p> <p>9 MR. BALART: That's the old one.</p> <p>10 THE WITNESS: Okay. Yeah, because I was going</p> <p>11 to say --</p> <p>12 MR. BALART: That's page 3 of Exhibit 2.</p> <p>13 THE WITNESS: Okay. All right. I just wanted</p> <p>14 to make sure.</p> <p>15 BY MR. WIDOR:</p> <p>16 Q. My screen froze. I don't see what you are</p> <p>17 showing.</p> <p>18 MR. BALART: He was showing you page 3 of</p> <p>19 Exhibit 2. You are now on Exhibit 3, which is another</p> <p>20 piece that goes to automotive dealers. Not the</p> <p>21 consumers that you brought this lawsuit on behalf of,</p> <p>22 but I'll reserve those objections until later. Or I</p> <p>23 guess I'll let you explain to the ALJ why you get to</p> <p>24 pick and choose which consumers you want to protect.</p> <p>25 BY MR. WIDOR:</p>

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53	<p>1 Q. Mr. Lilley, have you had a chance to review</p> <p>2 Exhibit 3?</p> <p>3 A. I have, yes.</p> <p>4 MR. BALART: Tom, we can't see you anymore, if</p> <p>5 that matters.</p> <p>6 MR. WIDOR: Yeah, I'm wondering, does everyone</p> <p>7 want to take a quick five-minute water or bathroom</p> <p>8 break and I'll try to reconnect.</p> <p>9 (A recess was taken.)</p> <p>10 BY MR. WIDOR:</p> <p>11 Q. Will, are you able to see Exhibit 3 on the</p> <p>12 screen?</p> <p>13 A. Yes, I am.</p> <p>14 Q. Have you had a chance to review it?</p> <p>15 A. I did, yes.</p> <p>16 Q. Do you recognize this document?</p> <p>17 A. Yes, sir, I do.</p> <p>18 Q. What is it?</p> <p>19 A. It's an e-mail blast that was sent out to</p> <p>20 dealers and general managers.</p> <p>21 Q. Do you know who designed the ad that was being</p> <p>22 promoted in this e-mail blast?</p> <p>23 A. It would have been, at the time, either Justin</p> <p>24 Brophy or Mercedes.</p> <p>25 Q. Did you have any involvement in the design</p>	55	<p>1 A. In regards to?</p> <p>2 Q. So in regards to the second sentence, "backed</p> <p>3 by years of research", are you aware of what that</p> <p>4 research was?</p> <p>5 A. I mean, the best of my knowledge, as far as</p> <p>6 research meaning, you know, looking at past results and</p> <p>7 success stories and things of that nature, but that's</p> <p>8 really what I would take it as.</p> <p>9 Q. Do you know who else might have done that</p> <p>10 research?</p> <p>11 A. Yeah, it would have been, you know, David,</p> <p>12 Chad, myself, other salespeople, you know.</p> <p>13 Q. Do you know whether Traffic Jam Events would</p> <p>14 maintain that research in document form?</p> <p>15 A. Outside the call center reports and everything,</p> <p>16 I don't.</p> <p>17 Q. Let me show you a few other documents. I'm</p> <p>18 going to show you what I'm currently marking Exhibit 4.</p> <p>19 (Lilley Deposition Exhibit Number 4 was marked</p> <p>20 for identification.)</p> <p>21 BY MR. WIDOR:</p> <p>22 Q. Has it appeared on your screen?</p> <p>23 A. Yes.</p> <p>24 Q. Let me know when you have had a chance to</p> <p>25 review.</p>
54	<p>1 process?</p> <p>2 A. No, I did not.</p> <p>3 Q. Do you know if David Jeansonne was involved in</p> <p>4 the design process?</p> <p>5 A. I can't say yes or no on that.</p> <p>6 Q. Do you know if this e-mail went to dealers</p> <p>7 around the United States?</p> <p>8 A. Yes, sir, it is.</p> <p>9 Q. Do you recall whether there was any kind of</p> <p>10 review for legal compliance of this ad?</p> <p>11 A. No, I can't confirm that.</p> <p>12 Q. I want to direct you to the two statements at</p> <p>13 the bottom of the e-mail blast on page 1.</p> <p>14 A. Okay.</p> <p>15 Q. Have you had a chance to review?</p> <p>16 A. Yes, I have.</p> <p>17 Q. Do you know what the basis was for the</p> <p>18 statement "Our #1 recommended direct-response</p> <p>19 postcard"?</p> <p>20 A. The statement, as I would understand, would</p> <p>21 just refer to, you know, as I mentioned earlier, you</p> <p>22 know, the one piece that had the most responses on it</p> <p>23 that we would see or dealerships would call back up and</p> <p>24 want to do over and over again.</p> <p>25 Q. Are you aware of any research that was done?</p>	56	<p>1 MR. WARCHOLA: It looks like its Bates numbered</p> <p>2 FTC-TJE-S1-14039.</p> <p>3 MR. WIDOR: That's right. Let me move the</p> <p>4 exhibit mark.</p> <p>5 BY MR. WIDOR:</p> <p>6 Q. Sorry, do you recognize this document?</p> <p>7 A. I do, yes.</p> <p>8 Q. How do you recognize this?</p> <p>9 A. This is what Mariela would fill out and send to</p> <p>10 the print facilities.</p> <p>11 Q. Would anyone else be involved in creating this?</p> <p>12 A. At one point in time, we were in a transition</p> <p>13 between people for that position, so you know, maybe</p> <p>14 back in like a couple years ago, I want to say, you</p> <p>15 know, sometimes us as the salespeople, we would fill it</p> <p>16 out and then send it over to Mariela or like the Julie</p> <p>17 Mosher lady.</p> <p>18 Q. At what point in the process would this</p> <p>19 document be created?</p> <p>20 A. This would be created once we had sent out like</p> <p>21 an agreement or an invoice. And once the dealership</p> <p>22 approved to move forward with the sales event, then we</p> <p>23 would get this going.</p> <p>24 Q. Who would be involved in filling out the</p> <p>25 information on this?</p>

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57	<p>1 A. Typically it would be Mariela.</p> <p>2 Q. Did you have any role in completing this?</p> <p>3 A. At one point in time, that was, you know, part</p> <p>4 of our responsibility as we would have to fill this out</p> <p>5 and then send it over. So, yes.</p> <p>6 Q. Approximately when did that responsibility</p> <p>7 cease to be yours?</p> <p>8 A. Exact date and time I can't say, but around,</p> <p>9 you know, 2019, you know, towards the beginning of the</p> <p>10 year.</p> <p>11 Q. Let me direct you to the mail piece description</p> <p>12 box. Do you see that in the middle of the page?</p> <p>13 A. Yes, I do.</p> <p>14 Q. Can you explain to us what that description is?</p> <p>15 A. So it just goes over basically the type of</p> <p>16 paper that we are going to be using as well as the</p> <p>17 theme of the mailer that we were going to be doing and</p> <p>18 then, you know, different products or envelopes that it</p> <p>19 would go into.</p> <p>20 Q. So what is the Combination Box 74937?</p> <p>21 A. That's the one we spoke about earlier, the</p> <p>22 little electronic product that we sold.</p> <p>23 Q. What about Peel2Win sticker?</p> <p>24 A. That's another product that we would sell as</p> <p>25 well that went on the flyers.</p>	59	<p>1 A. Traffic Jam, as being the client, yes,</p> <p>2 providing the list.</p> <p>3 Q. Okay. Can you tell us what your understanding</p> <p>4 is of "Variable/Fields Instructions"?</p> <p>5 A. Variable would just mean anything on the mailer</p> <p>6 that would have like your first and last name on it or</p> <p>7 your first name. So anything that was specific to that</p> <p>8 customer would be on there if available.</p> <p>9 Q. Do you know what "address panel" is?</p> <p>10 A. That would be like the little -- just like an</p> <p>11 address that you receive in the mailbox, you know, a</p> <p>12 mail piece that has your name, address and everything</p> <p>13 on it. That's the address panel.</p> <p>14 Q. Do you know what "winning number" is?</p> <p>15 A. Winning number would be the actual customer's</p> <p>16 number that they would come and match up to a big prize</p> <p>17 board that was sent to the dealership to see what they</p> <p>18 won.</p> <p>19 Q. Is that the same as the combination box number</p> <p>20 in the mail piece description field?</p> <p>21 A. Sometimes it would; sometimes it wouldn't.</p> <p>22 But, no, most of the time it wouldn't be the same</p> <p>23 number as a combination box.</p> <p>24 Q. Do you know what "conf code" means?</p> <p>25 A. I believe that's for the call center. Like if</p>
58	<p>1 Q. What about 9x12 AirEx?</p> <p>2 A. That is an envelope that the mail piece would</p> <p>3 go into.</p> <p>4 Q. What is the 8-1/2x11 Red Themed Mailer?</p> <p>5 A. That's the paper size of the mail piece we did</p> <p>6 as well as the theme of the mailer that we would do.</p> <p>7 Q. Would this be a standard advertisement that</p> <p>8 would be available in Traffic Jam Events' library?</p> <p>9 A. Typically it would be one of the pieces that we</p> <p>10 would run.</p> <p>11 Q. Do you know what the field "List Provided By"</p> <p>12 and then the choice is "client" or "printer" is?</p> <p>13 A. If there was a list being provided, we would --</p> <p>14 a lot of times, we would provide the list, but we would</p> <p>15 get it from a third-party company and then just send it</p> <p>16 to the print facility unless a dealership sent us their</p> <p>17 customer base and said they wanted the mail to their</p> <p>18 customers.</p> <p>19 Q. What is your understanding of the check box</p> <p>20 here?</p> <p>21 MR. BALART: Are you talking about the check</p> <p>22 box that says "client" or "printer"?</p> <p>23 BY MR. WIDOR:</p> <p>24 Q. Yeah, what is your understanding of the</p> <p>25 "client" box being checked by "list provided"?</p>	60	<p>1 customers would call in, it would say, you know, please</p> <p>2 enter your confirmation code so they could be able to</p> <p>3 verify in the system who is calling in to be able to</p> <p>4 greet them properly.</p> <p>5 Q. Do you know who handled the call center?</p> <p>6 A. Platinum Plus did for the longest time, and</p> <p>7 then we transitioned to another company that I want to</p> <p>8 say it's called Dealer Apps is the company that we</p> <p>9 used.</p> <p>10 Q. Did you have any role in working with the call</p> <p>11 center?</p> <p>12 A. Yes, I would work with them from time to time.</p> <p>13 Q. What would you do with them?</p> <p>14 A. Such as if we, you know, they were going to be</p> <p>15 taking calls for a certain client and say, for whatever</p> <p>16 reason, the mail piece got in homes late, we would then</p> <p>17 talk to the dealership about extending the sale so they</p> <p>18 got as much out of their advertisement as possible.</p> <p>19 And we would have to relay that and call to the call</p> <p>20 center and let them know, hey, we extended the sale</p> <p>21 dates. That way the agents knew, hey, let the</p> <p>22 customers know the sale has been extended.</p> <p>23 Q. Did you have a specific contact at Platinum</p> <p>24 Plus when they were handling the call centers?</p> <p>25 A. I didn't. For the most part, we always</p>

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61	<p>1 coordinated everything through our corporate office in 2 New Orleans. So they would handle the majority of that 3 for us and communicate with them. 4 Q. Is that also true with Dealer Apps? 5 A. For the most part, yes. 6 Q. Do you know whether there was any script that 7 the call center followed when people called in? 8 A. Yeah, they had a bunch of, you know, different 9 generic scripts they would use for the mail pieces. 10 Q. Do you know whether Traffic Jam Events provided 11 any input into those scripts? 12 A. From time to time, you know, I remember we 13 would just based on if -- one example would be if we 14 did like a credit offer or a credit mailer. We have 15 different cards that come on the mail piece itself, so 16 sometimes we would tell them, hey, we are doing a money 17 card for this sale. So they would then tell the 18 customer your money card has arrived, congratulations. 19 Sometimes the card would be called a Freedom Card. It 20 would change, but we would have to let them know, hey, 21 this is the type of card that's going to be on the 22 flyer. 23 Q. Do you know whether anyone at the call center 24 tracked caller information? 25 A. It was all in that online system that we --</p>	63	<p>1 Q. Do you know whether at any time Platinum Plus 2 offered website hosting? 3 A. Yes, we did have a back end dashboard tool for 4 that one too. 5 Q. Do you know when Traffic Jam Events stopped 6 using that back end tool? 7 A. It's been, gosh, probably two years now at 8 least. 9 Q. Let me show you one additional document. 10 (Lilley Deposition Exhibit Number 5 was marked 11 for identification.) 12 BY MR. WIDOR: 13 Q. Let me know if you see it. 14 A. I got it. 15 Q. Do you recognize this document? 16 A. I do, yes. 17 Q. Is it similar to the previous exhibit we just 18 reviewed, Exhibit 4? 19 A. It is, yes. 20 Q. I want to direct your attention to the 21 "variable/fields instructions" at the bottom of the 22 page again. 23 A. Okay. 24 Q. Let me know when you have had a chance to 25 review.</p>
62	<p>1 it's a dashboard that we were able to log into and 2 receive all that information. 3 Q. I want to direct you to another field at the 4 bottom right of this exhibit, PURL. 5 A. Okay. 6 Q. Do you see that? 7 A. I do. 8 Q. Do you know what PURL stands for? 9 A. Personalized -- it's more or less a landing 10 page, the personalized landing page for the customer. 11 Q. Do you know what this website was used for? 12 A. They would go on -- so there was two different 13 options. They could either call in to the call center 14 and set an appointment or they could go on to this 15 website and just schedule an appointment that way, 16 whatever they felt most comfortable doing. 17 Q. Do you know who ran the website? 18 A. That was the Dealer Apps company. It was all 19 in one. 20 Q. Do you know whether Platinum Plus previously 21 hosted websites for Traffic Jam Events? 22 MR. BALART: Tom, where are you getting that 23 Platinum Plus is hosting the website? Didn't he say it 24 was Dealer Apps? 25 BY MR. WIDOR:</p>	64	<p>1 A. I see it. 2 Q. I would like to go over the fields again. In 3 particular, do you know what PBNUM means? 4 A. Yeah, that would stand for the prize board 5 number. 6 Q. Is the prize board number the same as the 7 combination box number? 8 A. No. It would be a different term such as the 9 last one we just looked at. Instead of winning code, 10 it would just be prize board number. 11 Q. Okay. Thank you. 12 A. You are welcome. 13 Q. We'll pull that one back. Let me show you what 14 I'm about to mark as Exhibit 6. I apologize this may 15 be tiny, but it may be better to look at the hard copy 16 version. 17 (Lilley Deposition Exhibit Number 6 was marked 18 for identification.) 19 BY MR. WIDOR: 20 Q. Do you recognize what this document is? 21 A. Looks like a mailing list manifest. 22 Q. Have you seen mailing lists before? 23 A. I have, yes. 24 Q. Do you know who would prepare this document? 25 A. I want to say we get it -- we would get the</p>

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65	<p>1 information from the list provider, but we would have</p> <p>2 to -- I believe we would have to apply like a winning</p> <p>3 number or prize board number to this list.</p> <p>4 Q. Do you know who would apply the winning number</p> <p>5 to the list?</p> <p>6 A. Yeah, the very last person that was in that</p> <p>7 position would have been Mariela, who would apply those</p> <p>8 numbers.</p> <p>9 Q. Do you know how she did that?</p> <p>10 A. I don't know, no.</p> <p>11 Q. I would like to take you through the columns to</p> <p>12 the extent you understand what they are. So the first</p> <p>13 column, Conf/Code, do you recognize that field?</p> <p>14 A. Yeah, I believe that is the one that we were</p> <p>15 talking about as far as the call center people had to</p> <p>16 enter in that code to be able to identify who they were</p> <p>17 to the call center so they could give a proper</p> <p>18 greeting.</p> <p>19 Q. Do you know if that's similar to the field we</p> <p>20 discussed on the work orders in the variable/field</p> <p>21 instructions?</p> <p>22 A. Yes, I believe so. That is correct.</p> <p>23 Q. Do you know what the next column, endorse,</p> <p>24 represents?</p> <p>25 A. I don't know what that is, no.</p>	67	<p>1 A. I don't, no.</p> <p>2 Q. Let's go to the following column, number</p> <p>3 route_brk?</p> <p>4 A. I would assume it's the same as the sequence,</p> <p>5 but I'm not a hundred percent on that.</p> <p>6 Q. I want you to take a look at the column with</p> <p>7 "first". Let me know when you have had a chance to</p> <p>8 scan that.</p> <p>9 A. I'm over there.</p> <p>10 Q. Do you know why the phrase "verified winner" is</p> <p>11 used in some instances?</p> <p>12 A. Yeah, that would be like a default name. If,</p> <p>13 for whatever reason, there wasn't a confirmed name for</p> <p>14 that address, we would always have like a default name.</p> <p>15 So Verified Winner was one of them.</p> <p>16 Q. Did you ever hear about any complaints about</p> <p>17 the use of the term "verified winner"?</p> <p>18 A. I never did, no.</p> <p>19 Q. Let's go to the last column, PBNUM. Do you</p> <p>20 know what that stands for?</p> <p>21 A. That was the same as what would be on the work</p> <p>22 orders, the prize board number.</p> <p>23 Q. Besides Mariela, would there be anyone else who</p> <p>24 would be involved in creating the prize board number?</p> <p>25 A. Not to my knowledge, no.</p>
66	<p>1 Q. Do you know what the third column, WS, stands</p> <p>2 for?</p> <p>3 A. I don't -- maybe walk sequence.</p> <p>4 Q. What is a walk sequence?</p> <p>5 A. Like a postal worker, they have different walk</p> <p>6 sequences as far as what their routes were and</p> <p>7 everything. I believe S stands for saturation, meaning</p> <p>8 everybody within their route gets one of the flyers.</p> <p>9 Q. Do you know what sequence stands for?</p> <p>10 A. I guess like it sounds, just, you know, 1, 2,</p> <p>11 3, 4, 5, 6, 7, 8, so on and so forth.</p> <p>12 Q. And the next column over, do you know what CRID</p> <p>13 stands for?</p> <p>14 A. That would have been a carrier route.</p> <p>15 Q. Can you elaborate on what that means?</p> <p>16 A. Yeah, as far as, you know, I don't know a whole</p> <p>17 bunch about the postal system, but you know, there's</p> <p>18 area routes that serve different neighborhoods and, you</p> <p>19 know, complexes and stuff. So that would have been one</p> <p>20 of the carrier routes would have been carrier route 22.</p> <p>21 Q. Let me jump you over to the right past zip4 to</p> <p>22 the column that says DP.</p> <p>23 A. I don't know that.</p> <p>24 Q. Let's go over to the right one more column.</p> <p>25 CD, do you know what that stands for?</p>	68	<p>1 Q. Let me ask you one other question on the name.</p> <p>2 Were there ever times where a dealer did not want to</p> <p>3 use the phrase "verified winner"?</p> <p>4 A. No, they never had any, you know, comments one</p> <p>5 way or the other.</p> <p>6 Q. Were there any other alternative phrases that</p> <p>7 were used instead of "verified winner"?</p> <p>8 A. Very seldom. We would do maybe "current</p> <p>9 resident" would be one of them. "Car lover" was</p> <p>10 another one.</p> <p>11 Q. In terms of the prize board number, who would</p> <p>12 be involved in designing the prize board itself?</p> <p>13 A. The graphic designers.</p> <p>14 Q. Okay. Let me show you what I'm going to mark</p> <p>15 as Exhibit 6 -- sorry, Exhibit 7.</p> <p>16 (Lilley Deposition Exhibit Number 7 was marked</p> <p>17 for identification.)</p> <p>18 BY MR. WIDOR:</p> <p>19 Q. I should have revealed Exhibit 7. Are you able</p> <p>20 to see it?</p> <p>21 A. I can see it, yes.</p> <p>22 Q. Do you recognize this document?</p> <p>23 A. I do.</p> <p>24 Q. How do you recognize this?</p> <p>25 A. That's the postcard with a combination box.</p>

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69	<p>1 That was one of the pieces that, you know, had the best</p> <p>2 results off of it.</p> <p>3 Q. Do you know when this was created?</p> <p>4 A. As far as this particular sale or you are</p> <p>5 saying just the piece?</p> <p>6 Q. Do you know when just the piece was first</p> <p>7 created?</p> <p>8 MR. BALART: This piece or the piece in</p> <p>9 general, Tom? I'm still lost.</p> <p>10 BY MR. WIDOR:</p> <p>11 Q. The piece in general.</p> <p>12 A. Yeah, it's, I don't know, probably been a</p> <p>13 couple years at least.</p> <p>14 Q. Do you know who was involved in its creation?</p> <p>15 A. Yeah, the designers, you know, Justin. This</p> <p>16 was -- this piece had many different variations to it.</p> <p>17 So it was one of the products that we had when I</p> <p>18 started the company. So I don't know exactly who</p> <p>19 developed the first draft of it.</p> <p>20 Q. Besides Justin, do you know who else was</p> <p>21 involved in developing it?</p> <p>22 A. It just depended. I mean, you know, David,</p> <p>23 Chad, myself, the sales reps, you know, we would -- and</p> <p>24 clients as well. You know, some clients would want us</p> <p>25 to put different things on there, verbiage and stuff.</p>	71	<p>1 way the prize is and the numbers are laid out.</p> <p>2 Q. Would you ever have discussions with people at</p> <p>3 the company about aggressive prize panels?</p> <p>4 A. We would talk about it, yes.</p> <p>5 Q. What do you recall about those conversations?</p> <p>6 A. Just in regards to, you know, what dealers</p> <p>7 wanted it, what dealers, you know, didn't want it,</p> <p>8 things of that nature. Maybe the responses that we</p> <p>9 would see off of the prize panel being different than</p> <p>10 the others.</p> <p>11 Q. Would you consider this to be an aggressive</p> <p>12 prize panel?</p> <p>13 A. This one, yes, it would be an aggressive prize</p> <p>14 panel.</p> <p>15 Q. Did you ever hear anyone say or complain that</p> <p>16 the ad led them to believe they had won a specific</p> <p>17 prize?</p> <p>18 A. Yes. We would get complaints mainly just from</p> <p>19 dealers from time to time. It wasn't often, but every</p> <p>20 so often we would.</p> <p>21 Q. Do you know what the company would do with</p> <p>22 those complaints?</p> <p>23 A. I mean, I can't say exactly. It maybe would</p> <p>24 have been on a case-by-case scenario, but we would have</p> <p>25 tried to make it okay in the client's eyes, you know,</p>
70	<p>1 So that played a role sometimes in how we made the</p> <p>2 piece.</p> <p>3 Q. Do you recall any kind of review for legal</p> <p>4 compliance of this piece?</p> <p>5 A. Other than like the state-specific ones that I</p> <p>6 had mentioned to you or certain dealerships, but, no,</p> <p>7 it wasn't like a protocol on who we sent it to</p> <p>8 necessarily.</p> <p>9 Q. Do you know whether there was a name for this</p> <p>10 specific type of ad?</p> <p>11 A. We would just call it the 9-by-12 postcard with</p> <p>12 combination box.</p> <p>13 Q. Have you ever heard the term "prize panel"?</p> <p>14 A. Yes.</p> <p>15 Q. What do you understand that to be?</p> <p>16 A. The prizes on the mail piece. So you see how</p> <p>17 they are numbered 1 through 5, that would be the prize</p> <p>18 panel.</p> <p>19 Q. Have you ever heard of the term "aggressive</p> <p>20 prize panel"?</p> <p>21 A. I have, yes.</p> <p>22 Q. Where did you hear that?</p> <p>23 A. The term just comes from, you know, it's more</p> <p>24 you get customers that, you know, sometimes perceive</p> <p>25 that they won a certain prize because of, you know, the</p>	72	<p>1 whether we did a free mailer for them or, you know,</p> <p>2 maybe gave the customer what they, you know, perceived</p> <p>3 that they won just to try to make the customer happy.</p> <p>4 Q. Do you know what the purpose of the official</p> <p>5 winning code is?</p> <p>6 A. Where is that one?</p> <p>7 Q. In the top left in the white box.</p> <p>8 A. Yes. So that code always matched the</p> <p>9 combination box.</p> <p>10 Q. Do you know whether the official winning code</p> <p>11 would match a number in the prize panel?</p> <p>12 A. Yes, from time to time it would if it was, you</p> <p>13 know, deemed one of the aggressive ones.</p> <p>14 Q. Does matching the official winning code to the</p> <p>15 prize panel mean you won that specific prize?</p> <p>16 A. It doesn't, no.</p> <p>17 Q. Can you tell us what parts of the mailer tell</p> <p>18 you that you didn't win?</p> <p>19 A. Yes. So there should be on the mail piece</p> <p>20 itself a confirmation code, and then a prize board</p> <p>21 number usually would follow somewhere. Some sort of,</p> <p>22 you know, winning number or prize board number would be</p> <p>23 listed from the invitation itself, and they would have</p> <p>24 to come down to the dealership to come and see what</p> <p>25 they have won and match it to the prize board.</p>

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73	<p>1 Q. Do you see that number on this mailer?</p> <p>2 A. Yes, down here. It's not in there, but</p> <p>3 normally whenever it has this little box in like that,</p> <p>4 that's a variable. So that would be printed on at the</p> <p>5 print facility.</p> <p>6 Q. In terms of the complaints, do you recall</p> <p>7 hearing about complaints from people thinking they won</p> <p>8 when you first started at Traffic Jam Events in 2013?</p> <p>9 A. Yeah, unfortunately, you know, you would have</p> <p>10 people from time to time that, you know, complained off</p> <p>11 the mailers.</p> <p>12 Q. Let me turn your attention to page 2 of the ad.</p> <p>13 I want to direct your attention initially to the</p> <p>14 three-way boxes featuring the vehicles.</p> <p>15 A. Okay.</p> <p>16 Q. Do you see that?</p> <p>17 A. Yes, I do.</p> <p>18 Q. Do you know how the vehicles were selected?</p> <p>19 A. Most of the time the designers would pull them</p> <p>20 off the dealership's website and, you know, do a</p> <p>21 payment on them or the dealership would provide the</p> <p>22 vehicles to us.</p> <p>23 Q. Can you explain what you mean by do a payment</p> <p>24 on them?</p> <p>25 A. Yeah, so they would -- I don't know what</p>	75	<p>1 Q. Do you know how the information on this --</p> <p>2 MR. BALART: So I know what you are having the</p> <p>3 witness look at and we can -- because all I see is the</p> <p>4 same page that I have always seen.</p> <p>5 MR. WIDOR: So it should be enlarged to the</p> <p>6 bottom right corner where the fine print is.</p> <p>7 MR. BALART: It's not on my screen. So you're</p> <p>8 asking about the bottom right-hand corner?</p> <p>9 MR. WIDOR: Yeah. Strange. I've been trying</p> <p>10 to sync. Is anyone else having issues with me syncing?</p> <p>11 THE REPORTER: I think you have to tell Agile</p> <p>12 Law to see the witness view.</p> <p>13 MR. WIDOR: Oh, that's what it is. So in the</p> <p>14 top left corner where it says "view witness".</p> <p>15 MR. BALART: Okay. I'm on now.</p> <p>16 BY MR. WIDOR:</p> <p>17 Q. Let me repeat the question. Do you know how</p> <p>18 the information for this section of the mailer was</p> <p>19 obtained?</p> <p>20 A. It would either be provided by the client</p> <p>21 themselves or, you know, from just verbiage that we</p> <p>22 viewed on other similar mail pieces.</p> <p>23 Q. Do you know whether anyone would review these</p> <p>24 terms besides the graphic designers or dealers?</p> <p>25 A. No. Really, you know, they would do a proofing</p>
74	<p>1 exactly what terms they would use all the time, but you</p> <p>2 know, they would do some sort of a monthly or financing</p> <p>3 term for the -- to come up with the monthly payment.</p> <p>4 Q. So now I want to point you to the \$0 down and</p> <p>5 then the monthly payment amount. Is that something</p> <p>6 that the graphic designers came up with?</p> <p>7 MR. BALART: Objection to the form of the</p> <p>8 question. He just testified that sometimes they came</p> <p>9 up with them and sometimes the dealers provided it.</p> <p>10 BY MR. WIDOR:</p> <p>11 Q. Is that information material that graphic</p> <p>12 designers would occasionally develop for the ads?</p> <p>13 A. Yes, it would be.</p> <p>14 Q. Do you know how they made those calculations?</p> <p>15 A. I'm not sure. I wouldn't -- no, I never knew,</p> <p>16 you know, how they would come up with them. I would</p> <p>17 assume they would just have some sort of formula or</p> <p>18 process they followed.</p> <p>19 Q. Do you know if anyone else at the company was</p> <p>20 involved in coming up with that calculation?</p> <p>21 A. No, I do not.</p> <p>22 Q. I want to direct you briefly to the bottom</p> <p>23 right corner. I'm going to sync my page. Let me know</p> <p>24 when you have had a chance to review.</p> <p>25 A. Okay, I can see it.</p>	76	<p>1 process to where, you know, there was, you know,</p> <p>2 another set of eyes that would look at it. And then,</p> <p>3 you know, ultimately the dealership would get that</p> <p>4 themselves and be able to review it too. You know, we</p> <p>5 kind of leaned on them a lot to be able to proof and</p> <p>6 make sure all the terms and everything were correct.</p> <p>7 Q. Were you asked for specific feedback from the</p> <p>8 dealers?</p> <p>9 A. In regards to?</p> <p>10 Q. Proofing the fine print.</p> <p>11 A. Not really, no.</p> <p>12 Q. Let me show you another exhibit.</p> <p>13 (Lilley Deposition Exhibit Number 8 was marked</p> <p>14 for identification.)</p> <p>15 BY MR. WIDOR:</p> <p>16 Q. I'm going to show you what's been designated</p> <p>17 Exhibit 8. Do you recognize this document?</p> <p>18 MR. WARCHOLA: It's not on the screen.</p> <p>19 MR. WIDOR: Let me try again.</p> <p>20 MR. WARCHOLA: There we go.</p> <p>21 BY MR. WIDOR:</p> <p>22 Q. Have you had a chance to review?</p> <p>23 A. Yeah.</p> <p>24 Q. Do you recognize this document?</p> <p>25 A. I do, yes.</p>

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<p>1 Q. How are you familiar with this document? 2 A. This was one of the mail pieces that we 3 offered. 4 Q. Did this mail piece go by a specific name? 5 A. It would be, we would call it either a finalist 6 theme or a match-to-win theme. 7 Q. Do you know when this was created? 8 A. This is another layout that's been with the 9 company for as long as I could remember. 10 Q. Do you know who created it? 11 A. I don't know. 12 Q. Would you have a role in selling this 13 advertisement? 14 A. I would, yes. 15 Q. Were there specific circumstances under which 16 you would offer this ad? 17 A. It would depend. At lot of times, you know, as 18 I mentioned, we would send out sample packets, and you 19 know, we would have clients choose which -- you know, 20 some clients would, you know, choose this particular 21 piece, you know, and other times we may recommend it if 22 we had already done other mail pieces and they haven't 23 tried this one yet. We might, you know, give this one 24 a try. So it would probably be 50/50, they would 25 either pick it or we would, you know, recommend it.</p>	<p>1 you ever told by anyone at Traffic Jam Events not to 2 offer this ad to dealers? 3 A. No, I was not. 4 Q. Were you ever disciplined or reprimanded for 5 selling this ad to dealers? 6 A. No, I was not. 7 Q. Do you know if anyone has ever been disciplined 8 or reprimanded by Traffic Jam Events for selling this 9 ad to dealers? 10 A. No, we were not. 11 Q. After the FTC filed its complaint in 12 August 2020, were you given any instructions on what 13 prize ads you could sell? 14 MR. BALART: To the extent, Tom, you are asking 15 him for any discussions that I may have had with the 16 team, I'm going to instruct him not to answer. 17 BY MR. WIDOR: 18 Q. Other than conversations with counsel, were you 19 given any instructions on what prize ads you could sell 20 after the FTC filed its complaint in August of 2020? 21 MR. BALART: I think my objection goes beyond 22 just conversations with me, Tom. If I directed anyone 23 within the company to give that direction, I don't 24 think that you are entitled to invade that privilege. 25 So I instruct the witness not to answer on that basis.</p>
78	80
<p>1 Q. Would you consider this to be an aggressive 2 prize panel? 3 A. This one, yeah, it would be, you know, deemed 4 as an aggressive prize panel as well. 5 Q. Why would you deem this an aggressive prize 6 panel? 7 A. Just because the symbols are, you know, close 8 by the prizes. 9 Q. Would there be a row of matching symbols that 10 matched one of the prizes? 11 A. Yes. And this mailer -- with this mailer, yes. 12 Q. Let me ask you, I want to kind of ask the same 13 question about the prior exhibit. I can pull it up if 14 you want, but I don't know if I could explain why the 15 Exhibit 7 was considered an aggressive prize panel? 16 A. Okay. 17 Q. Would it help to pull it up? 18 A. I'm trying to pull it up. 19 Q. Okay. 20 A. On this one where the numbers are closer to the 21 prizes. 22 Q. Is there anything else about the ad that makes 23 it an aggressive prize panel? 24 A. No, sir. 25 Q. Couple follow-up questions on Exhibit 7. Were</p>	<p>1 MR. WIDOR: The fact that someone is told that 2 they can't promote a prize ad doesn't reveal any 3 privileged information if he doesn't even know it's 4 coming from counsel. 5 MR. BALART: It sure does. I'm going to 6 instruct him not to answer. You can take it up with 7 the judge. It's no different than the multiple times 8 that your witness, Ms. Nolan, was instructed not to 9 answer questions that were simply asking whether 10 something even existed. So if you want to take it up 11 with the judge, let's take it up with the judge. 12 BY MR. WIDOR: 13 Q. After the FTC filed its complaints, do you know 14 whether any changes were made to the ads that were 15 offered? 16 MR. BALART: Same directive. And now you are 17 asking him for subsequent remedial measures. I'm going 18 to direct him not to answer. 19 MR. WIDOR: So you are objecting on the basis 20 that that's privileged communications? 21 MR. BALART: If the reason they were asked to 22 change the ads was because your complaint, which would 23 be privileged information that I gave that I advised 24 them to do, which would also include a subsequent 25 remedial measure, which is not admissible, absolutely.</p>

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81	<p>1 So --</p> <p>2 MR. WIDOR: Subsequent remedial measures aren't</p> <p>3 a privilege.</p> <p>4 MR. BALART: They are if they are based on</p> <p>5 legal advice. If you have a specific ad that you want</p> <p>6 to talk to him about that doesn't invade the privilege,</p> <p>7 be my guest. Go right read.</p> <p>8 MR. WIDOR: Discussion of the remedial measures</p> <p>9 does not disclose privileged communications. The fact</p> <p>10 that a remedial measure was taken does not at all</p> <p>11 disclose privileged communications.</p> <p>12 MR. BALART: Tom, let me be very clear. If you</p> <p>13 have a specific ad that you would like to factually</p> <p>14 examine the witness on after the FTC's complaint, you</p> <p>15 are free to do that. Your questions right now are</p> <p>16 talking about legal advice given to the company after</p> <p>17 the filing of the complaint and what the company may</p> <p>18 have done based on that legal advice. I'm instructing</p> <p>19 the witness not to answer. If you would like to take</p> <p>20 it up with the judge, you can.</p> <p>21 I am not instructing the witness not to answer</p> <p>22 specific questions about specific advertisements after</p> <p>23 the filing of the FTC complaint. So you can put two</p> <p>24 and two together, but to the extent you are asking him</p> <p>25 what the company may have done based on legal advice</p>	83	<p>1 (Lilley Deposition Exhibit Number 9 was marked</p> <p>2 for identification.)</p> <p>3 BY MR. WIDOR:</p> <p>4 Q. I put on screen what's been marked as</p> <p>5 Exhibit 9. Let me know when you have had a chance to</p> <p>6 review.</p> <p>7 A. Okay, I have it.</p> <p>8 Q. Do you recognize this document?</p> <p>9 A. I do, yes.</p> <p>10 Q. How do you recognize this?</p> <p>11 A. This was one of our clients.</p> <p>12 Q. Who is the client?</p> <p>13 A. Regal Kia is the name of the dealership.</p> <p>14 Q. Do you know when this was created?</p> <p>15 A. This was back before the turn of the year. So</p> <p>16 around November timeframe, maybe a little bit before</p> <p>17 that.</p> <p>18 MR. BALART: Will, when you say turn of the</p> <p>19 year, are you talking about 2020 or 2021? This would</p> <p>20 have been 2020?</p> <p>21 THE WITNESS: Yes, 2020.</p> <p>22 BY MR. WIDOR:</p> <p>23 Q. Do you know who was involved in developing this</p> <p>24 ad?</p> <p>25 A. Yeah, this was -- it was one of our stock ads</p>
82	<p>1 given following your filing of the complaint, I don't</p> <p>2 think that that's -- I think that that invades the</p> <p>3 privilege.</p> <p>4 BY MR. WIDOR:</p> <p>5 Q. Did you have any conversations with Traffic Jam</p> <p>6 Events officers about stopping the use of this ad?</p> <p>7 MR. BALART: The use of what ad?</p> <p>8 MR. WIDOR: Exhibit 7.</p> <p>9 THE WITNESS: No, we did not.</p> <p>10 BY MR. WIDOR:</p> <p>11 Q. Let's go back to Exhibit 8. Were you ever told</p> <p>12 by anyone at Traffic Jam Events not to offer this ad?</p> <p>13 A. No, we were not.</p> <p>14 Q. Were you ever disciplined or reprimanded for</p> <p>15 selling this ad to dealers?</p> <p>16 A. No, we were not.</p> <p>17 Q. Are you aware of anyone who was ever</p> <p>18 disciplined or reprimanded for selling this ad?</p> <p>19 A. No.</p> <p>20 Q. Did you have any conversations with officers of</p> <p>21 Traffic Jam Events about discontinuing the use of this</p> <p>22 ad?</p> <p>23 A. No, we did not.</p> <p>24 Q. All right. Let me show you now what is being</p> <p>25 marked as Exhibit 9.</p>	84	<p>1 that we had on the shelf, and the dealership wanted to</p> <p>2 run it. So the designers just built that based on what</p> <p>3 we already had.</p> <p>4 Q. Does this stock ad have a name?</p> <p>5 A. We would have called it a money card giveaway</p> <p>6 or insured cash giveaway.</p> <p>7 Q. Does the credit card serve any purpose?</p> <p>8 A. The credit card was more if the customer</p> <p>9 called, when they called in off the flyer, normally</p> <p>10 they were instructed to give their number to the card</p> <p>11 on the flyer, and you know, that would identify who</p> <p>12 they were to the call center.</p> <p>13 Q. Did you have any role in its development?</p> <p>14 A. No, I did not.</p> <p>15 MR. BALART: Of the credit card or the ad?</p> <p>16 BY MR. WIDOR:</p> <p>17 Q. Did you have any role in developing the ad?</p> <p>18 A. No, I might have made some suggestions based on</p> <p>19 what I spoke to the client about. But, no, not as far</p> <p>20 as the conceptual of it.</p> <p>21 Q. Did you ever sell this ad to dealers?</p> <p>22 A. I did, yes.</p> <p>23 Q. Was this dealer one of your specific clients?</p> <p>24 A. This was one of the sales reps at the company's</p> <p>25 clients. It had been a client for a long time of the</p>

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85	<p>1 company, and you know, I kind of helped with it.</p> <p>2 Q. Who would have been the sales rep?</p> <p>3 A. It would have been Ty Prestwood.</p> <p>4 Q. Do you recall this ad ever being reviewed for</p> <p>5 legal compliance?</p> <p>6 A. No, I do not.</p> <p>7 Q. Would you consider this to be an aggressive</p> <p>8 prize panel?</p> <p>9 A. Yeah, it would be another one, yes.</p> <p>10 Q. Why would you consider it to be an aggressive</p> <p>11 prize panel?</p> <p>12 A. Just because the numbers are still, you know,</p> <p>13 aligned by the prizes.</p> <p>14 Q. Did you ever hear anyone complain that the ad</p> <p>15 gave the impression that they had won a specific prize?</p> <p>16 A. On some of them, yes. On most of them, no, we</p> <p>17 wouldn't hear many complaints.</p> <p>18 Q. Were you ever told by anyone at Traffic Jam</p> <p>19 Events not to offer this ad to dealers?</p> <p>20 A. No, I was not.</p> <p>21 Q. Were you ever disciplined or reprimanded for</p> <p>22 selling this ad to a dealer?</p> <p>23 A. No.</p> <p>24 Q. Do you know if Ty Prestwood was ever</p> <p>25 disciplined or reprimanded for selling this ad?</p>	87	<p>1 Q. Do you know who the freelance graphic designer</p> <p>2 was?</p> <p>3 A. I can't remember the guy's name, no.</p> <p>4 Q. Do you recall what prompted the development of</p> <p>5 this ad?</p> <p>6 A. Yeah, it was a guy that David had been working</p> <p>7 with on some other stuff that he was doing some pretty</p> <p>8 cool graphic design work on some of the things at</p> <p>9 David's beach house. And anyways, you know, we had</p> <p>10 kind of gotten a little stagnant in our graphic design</p> <p>11 department as far as like new creatives and stuff, and</p> <p>12 this guy, you know, offered to help and, you know,</p> <p>13 David had given us permission to use him.</p> <p>14 Q. Do you know if anyone else at Traffic Jam</p> <p>15 Events was involved in developing this ad?</p> <p>16 A. No.</p> <p>17 Q. Did you have any role in developing it?</p> <p>18 A. I did. Myself and David.</p> <p>19 Q. What was your role?</p> <p>20 A. Just basically giving the guy, you know, the</p> <p>21 content as far as the vehicle offers and then, you</p> <p>22 know, showing him some of the other ads that we did so</p> <p>23 he could kind of mirror, you know, the similar layouts</p> <p>24 that we've done in the past.</p> <p>25 Q. Did you have a role in selling this ad?</p>
86	<p>1 A. No, he was not.</p> <p>2 Q. Are you aware of anyone being disciplined or</p> <p>3 reprimanded for selling this ad?</p> <p>4 A. No, we were not.</p> <p>5 Q. Do you recall having any conversations with</p> <p>6 officers of Traffic Jam Events about discontinuing the</p> <p>7 use of this ad?</p> <p>8 A. No, I was not.</p> <p>9 Q. Okay. I'm almost through. I want to show you</p> <p>10 two more and we should be close to the finish line.</p> <p>11 I'm about to show you what's been marked as Exhibit 10.</p> <p>12 (Lilley Deposition Exhibit Number 10 was marked</p> <p>13 for identification.)</p> <p>14 BY MR. WIDOR:</p> <p>15 Q. Do you see it on your screen?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Have you had a chance to review it?</p> <p>18 A. Yes, I have.</p> <p>19 Q. Do you recognize this document?</p> <p>20 A. I do, yes.</p> <p>21 Q. How do you recognize this?</p> <p>22 A. This was a sample ad that we had built from a</p> <p>23 graphic design artist that was a freelance person, and</p> <p>24 we had -- we did it for -- just for free just to try it</p> <p>25 out for one of our clients.</p>	88	<p>1 A. Yes. It was to one of my clients that I</p> <p>2 serviced over there. As mentioned before, we gave him</p> <p>3 a free run of this mail piece.</p> <p>4 Q. Do you recall anything else about the design</p> <p>5 process for this ad?</p> <p>6 A. No, I do not.</p> <p>7 Q. Do you recall any review for legal compliance</p> <p>8 of the ad?</p> <p>9 A. I do not.</p> <p>10 Q. Do you know whether there was a name that was</p> <p>11 used to refer to this ad?</p> <p>12 A. It would have been called Crack the Vault.</p> <p>13 Q. Would you consider this to be an aggressive</p> <p>14 prize panel?</p> <p>15 A. Yes, I would.</p> <p>16 Q. Did anyone at Traffic Jam Events ever tell you</p> <p>17 not to offer this ad to dealers?</p> <p>18 A. No, sir.</p> <p>19 Q. Were you ever disciplined or reprimanded for</p> <p>20 selling this ad to a dealer?</p> <p>21 A. No, I was not. We were suggested to give it to</p> <p>22 one of our best clients to let them try it for free.</p> <p>23 Q. Besides this client, was it offered to any</p> <p>24 other dealers?</p> <p>25 A. No, it was not.</p>

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89	<p>1 Q. Was anyone else ever disciplined or reprimanded</p> <p>2 for offering this ad?</p> <p>3 A. No, they were not.</p> <p>4 Q. Did you have any conversations with officers of</p> <p>5 Traffic Jam Events about discontinuing the use of this</p> <p>6 ad?</p> <p>7 A. No, we did not.</p> <p>8 Q. Do you know why this was a one-time use?</p> <p>9 A. Yeah, the results weren't what we normally get</p> <p>10 off of mail pieces. So it ended up just kind of going</p> <p>11 to the wayside.</p> <p>12 Q. I'm going to mark what is being designated as</p> <p>13 Exhibit 11.</p> <p>14 (Lilley Deposition Exhibit Number 11 was marked</p> <p>15 for identification.)</p> <p>16 BY MR. WIDOR:</p> <p>17 Q. Let me know when you have had a chance to look</p> <p>18 at both pages 1 and 2.</p> <p>19 A. Okay.</p> <p>20 Q. Do you recognize this ad?</p> <p>21 A. I do, yes.</p> <p>22 Q. How do you recognize this?</p> <p>23 A. This is one of our license plate mailers that</p> <p>24 we offer.</p> <p>25 Q. Do you know when this was created?</p>	91	<p>1 Q. Did the barcode in the top right corner serve</p> <p>2 any purpose?</p> <p>3 A. It did. When customers came down to the</p> <p>4 dealership, they would -- the dealership would scan the</p> <p>5 bar code to register them. And then there would be</p> <p>6 underneath it where it says "winning number" and is in</p> <p>7 brackets, there would be an actual winning number that</p> <p>8 they would match up to the bar -- or match up to the</p> <p>9 prize board, rather, at the dealership to see if they</p> <p>10 won.</p> <p>11 Q. In terms of the car information and payment</p> <p>12 information on the second page, do you know who</p> <p>13 selected that for this particular mailer?</p> <p>14 A. Yeah, that would have come from the dealership.</p> <p>15 Q. Did you ever hear anyone complain that this ad</p> <p>16 gave the impression they had won a specific prize?</p> <p>17 A. No, I do not remember that.</p> <p>18 Q. Did anyone at Traffic Jam Events ever tell you</p> <p>19 not to offer this ad to dealers?</p> <p>20 A. No, sir.</p> <p>21 Q. Were you ever disciplined or reprimanded for</p> <p>22 selling this ad to a dealer?</p> <p>23 A. No.</p> <p>24 Q. Are you aware of anyone being disciplined or</p> <p>25 reprimanded by Traffic Jam Events for selling this ad?</p>
90	<p>1 A. Couple years ago.</p> <p>2 Q. Do you know who created it?</p> <p>3 A. It would have been Justin Brophy, the graphic</p> <p>4 design director.</p> <p>5 Q. Do you know who else would have been involved</p> <p>6 in developing it?</p> <p>7 A. Yeah, depending on who sold that or whose</p> <p>8 client it was, you know, we would always get vehicle</p> <p>9 offers and things of that from them.</p> <p>10 Q. Do you recall anything more about the design</p> <p>11 process for this ad?</p> <p>12 A. I do not.</p> <p>13 Q. Do you recall any review for legal compliance?</p> <p>14 A. Other than the dealership, no, I do not.</p> <p>15 Q. Would you consider this to be an aggressive</p> <p>16 prize panel?</p> <p>17 A. Yes, this one would be aggressive as well.</p> <p>18 Q. Why do you say that?</p> <p>19 A. Just because it says if you have four of the</p> <p>20 same symbols that match, you could be the winner of</p> <p>21 5,000.</p> <p>22 Q. Is there anything else about the ad that leads</p> <p>23 you to think it's an aggressive prize panel?</p> <p>24 A. Just because all the symbols say 5,000 on it,</p> <p>25 yes.</p>	92	<p>1 A. No, we were not.</p> <p>2 Q. Did you have any conversations with officers of</p> <p>3 Traffic Jam Events about discontinuing the use of this</p> <p>4 ad?</p> <p>5 A. No.</p> <p>6 Q. Let me just pull this back. We can probably</p> <p>7 wrap up. I just have a couple more questions and then</p> <p>8 I can turn it over to Mr. Balart.</p> <p>9 Did you ever hear from other Traffic Jam Events</p> <p>10 employees complaining that any of the ads were</p> <p>11 misleading?</p> <p>12 A. No, nobody that I know of complained about it.</p> <p>13 Q. Do you know if Traffic Jam Events was ever sued</p> <p>14 by a dealer or consumer over an advertisement?</p> <p>15 A. I know there was different situations in the</p> <p>16 past where, you know, before I got there that the</p> <p>17 company was -- had a settlement or we couldn't call the</p> <p>18 state of Kansas anymore, I guess, due to some of the</p> <p>19 advertisements that, you know, were done out there.</p> <p>20 You know, we had a couple ads that we would get</p> <p>21 complaints on and stuff. And you know, outside of</p> <p>22 Traffic Jam, I just vaguely remember like the print</p> <p>23 facility getting in some lawsuits or things of that</p> <p>24 nature.</p> <p>25 Q. What print facility are you referring to?</p>

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93	<p>1 A. The Platinum Plus Printing.</p> <p>2 Q. How did you hear about the print facility</p> <p>3 getting sued?</p> <p>4 A. David would normally tell us.</p> <p>5 Q. Do you recall when that was?</p> <p>6 A. Couple years ago, you know, two, three years</p> <p>7 ago.</p> <p>8 Q. Do you recall anything more about that</p> <p>9 conversation?</p> <p>10 A. I don't. I know one of which was, you know,</p> <p>11 for a dealership up in Michigan that we used to service</p> <p>12 and you know, some other companies as well, you know,</p> <p>13 just different little things like that.</p> <p>14 Q. Do you recall the name of the dealership?</p> <p>15 A. Not off the top of my head, no, sir.</p> <p>16 Q. Were you ever aware of any dealers being sued</p> <p>17 that used Traffic Jam Events advertisements?</p> <p>18 A. There was some over the years. I can't</p> <p>19 pinpoint exactly what dealer or advertisement it may</p> <p>20 have been, but I do know there was some over the years,</p> <p>21 yes.</p> <p>22 Q. Do you recall anything more specific about</p> <p>23 that?</p> <p>24 A. No. You know, sometimes it might have been</p> <p>25 what to do with the sales team going out there, you</p>	95	<p>1 we won't, you know, do any business in that state</p> <p>2 anymore or what it was. But I do remember, you know,</p> <p>3 that was one of them as well, but that was later on as</p> <p>4 I was working there.</p> <p>5 Q. Do you recall who you had conversations with at</p> <p>6 the company about Indiana?</p> <p>7 A. I believe Chad had told us one day not to call</p> <p>8 through Indiana anymore or maybe we had a big</p> <p>9 conference call and, you know, brought all of the</p> <p>10 salespeople up to the front room and said just, you</p> <p>11 know, for now we are not going to call through Indiana.</p> <p>12 Q. Let me ask you one or two more questions about</p> <p>13 the map. Would the map designate which sales reps were</p> <p>14 responsible for each of the states?</p> <p>15 A. Yes.</p> <p>16 Q. How was that? Would you put your initials on</p> <p>17 it?</p> <p>18 A. You would. You would put your initials next to</p> <p>19 or on the state that you are going to be calling.</p> <p>20 Q. I think one last question, going back to the</p> <p>21 prize panels, do you know if customers who complained</p> <p>22 about the aggressive prize panels always received a</p> <p>23 prize?</p> <p>24 A. Yes, they did.</p> <p>25 Q. And do you know anything about how it was</p>
94	<p>1 know, customers complaining about, you know, they</p> <p>2 didn't feel like they got a good deal or the deal they</p> <p>3 did get wasn't -- you know, wasn't fair. Just</p> <p>4 different things like that.</p> <p>5 Q. You mentioned Kansas. When did you first learn</p> <p>6 about not doing business in Kansas?</p> <p>7 A. When I started with the company.</p> <p>8 Q. Who did you speak to about that?</p> <p>9 A. The managers at the time, Chad and Mark. You</p> <p>10 know, we had a big map of the United States on the</p> <p>11 board, and you know, you would go and put your initials</p> <p>12 next to what state you are going to be calling through,</p> <p>13 and Kansas had, you know, a DNC, which meant do not</p> <p>14 call, on it. So you know, that was a question that was</p> <p>15 asked sometimes by, you know, us or new people that</p> <p>16 come in saying why we can't call them. So...</p> <p>17 Q. Were there any other states that were marked</p> <p>18 DNC?</p> <p>19 A. There wasn't. Kansas and Indiana was one of</p> <p>20 them as well, yes.</p> <p>21 Q. Do you know why Indiana was a DNC state?</p> <p>22 A. I want to say probably for the same reasons</p> <p>23 Kansas was, just, you know, a complaint about</p> <p>24 advertisement or something like that and you know, I</p> <p>25 don't know, you know, the company had settled and said</p>	96	<p>1 determined how many prizes would be given away?</p> <p>2 A. Most of -- I mean, unless the dealership did it</p> <p>3 otherwise, I mean, usually everybody would get a prize</p> <p>4 just for coming down.</p> <p>5 Q. What would that prize be?</p> <p>6 A. It depended. We had different prizes. You</p> <p>7 know, we had some people that would actually win the</p> <p>8 big prizes, you know, whether it's a big amount of cash</p> <p>9 or a car. You know, at the very least, they'd get, you</p> <p>10 know, a set of ear buds that we would sell. We had</p> <p>11 smart watches, vacation packages. Also, you know, we</p> <p>12 would do gift cars to Walmart or something like that.</p> <p>13 Q. Besides Kansas and Indiana, were you aware of</p> <p>14 any other state investigations into Traffic Jam Events?</p> <p>15 A. No, I wasn't.</p> <p>16 Q. Do you know if Florida ever had an</p> <p>17 investigation into Traffic Jam Events?</p> <p>18 A. To my knowledge, no, I do not.</p> <p>19 Q. Do you recall when you first learned about the</p> <p>20 lawsuit by the FTC?</p> <p>21 A. Yes. Well, vaguely. I don't know exactly when</p> <p>22 it came out, but I do remember them, you know, holding</p> <p>23 a meeting and, you know, telling everybody about it.</p> <p>24 Q. Who was involved in the meeting?</p> <p>25 A. David held the meeting and, you know, Chad and,</p>

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97	<p>1 you know, me and the salespeople were up, you know, 2 listening to it on a Polycom phone. 3 Q. What were you told? 4 MR. BALART: Well, to the extent that this 5 involves anything that I would have communicate to the 6 company, I'm going to instruct you not to answer. You 7 can respond outside of that. But to the extent 8 anything you were told involves legal advice to the 9 company, don't respond. 10 THE WITNESS: Basically just that we were, you 11 know, being sued by the Attorney General in Florida and 12 that you know, it had made its way up to the FTC 13 regarding the COVID-19 mailer. 14 BY MR. WIDOR: 15 Q. Were you ever told to take steps to preserve 16 documents relevant to the Florida or FTC cases? 17 MR. BALART: Will, you are instructed not to 18 answer that question on the basis of privilege. 19 BY MR. WIDOR: 20 Q. Did you take any steps to preserve documents 21 relevant to either the FTC or Florida investigations? 22 MR. BALART: Tom, can you please hold on. I'm 23 having a computer issue and I need to object to this 24 line of questioning. Would you please hold on. 25 MR. WIDOR: Are you still there, Etienne?</p>	99	<p>1 BY MR. WIDOR: 2 Q. Mr. Lilley, do you want to go ahead and answer. 3 A. Sure. No, I didn't take in consideration or we 4 didn't preserve any documents for that. 5 Q. Do you know whether any documents were deleted 6 after the investigations? 7 A. Not to my knowledge, no. 8 Q. I'm going to show you what's going to be the 9 last exhibit, Exhibit 12. 10 MR. BALART: Tom, give me a little bit of time 11 to catch up with you here. I'm going to have to reboot 12 at the break. I think I can get to your Agile so we 13 don't have to delay this. Just bear with me, please. 14 Actually, you know what, Tom, it is so -- Tom, can you 15 hear me? 16 MR. WIDOR: Yeah, sorry, I was just waiting for 17 you to finish. 18 MR. BALART: My computer screens are so messed 19 up, I'm still on the Zoom, but I can't get to Agile. 20 Why don't we take our 30-minute break because I'm going 21 to have to reboot and then you can conclude. 22 MR. WIDOR: Does that sound good, everyone? 23 MR. WARCHOLA: That's fine. 24 MR. WIDOR: We'll return at 12:50 p.m. Eastern 25 Time.</p>
98	<p>1 MR. BALART: I am, Tom, but I can't see you 2 guys because my computer is frozen. So just bear with 3 me. 4 MR. WARCHOLA: Can we take a quick two- to 5 three-minute break, then? 6 MR. WIDOR: Yeah. And I'm just about done. I 7 don't know how much time you think you have and whether 8 it makes sense to take a longer lunch break for half an 9 hour or try to push through. 10 MR. WARCHOLA: Here is my preference, is that, 11 Tom, you finish your questioning and we take a very 12 short break, no more than a half an hour for lunch, and 13 then reconvene. 14 MR. WIDOR: That's fine by me. I just wanted 15 to offer Etienne time if he needed more. 16 MR. BALART: I think it's working. Can you 17 hear me? 18 MR. WARCHOLA: I can. 19 MR. WIDOR: Yes. Do you need anything read 20 back from the court reporter to rewind somewhere? 21 MR. BALART: No, I think we are okay. 22 MR. WIDOR: Actually, do you mind reading back 23 the last question and any other statement after that 24 from me. 25 (The record was read as requested.)</p>	100	<p>1 (Whereupon, at 12:20 p.m., a lunch recess was 2 taken.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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102	<p>1 you know, was -- we were able to go on to, but I don't</p> <p>2 know exactly like what system it would have been.</p> <p>3 Q. Same question for invoices, do you know where</p> <p>4 those were stored?</p> <p>5 A. Same, yeah, probably either the web-based cloud</p> <p>6 thing or, you know, QuickBooks.</p> <p>7 Q. And what about the advertisements themselves?</p> <p>8 A. Same thing, in a shared drive or a cloud-based</p> <p>9 type system.</p> <p>10 Q. Do you know who the best person would be to ask</p> <p>11 at the company exactly where they were stored?</p> <p>12 A. Well, there was different departments in which</p> <p>13 people handled that. Probably, you know, either</p> <p>14 probably Chad or Mariela.</p> <p>15 Q. I also just want to make sure I got all the</p> <p>16 steps in the sales process correct. So I was hoping</p> <p>17 you could walk me through it one more time. Is it fair</p> <p>18 to say that the first step would be a sales rep</p> <p>19 reaching out to a dealer to gauge interest?</p> <p>20 A. Yes.</p> <p>21 Q. Then once a dealer expresses interest in</p> <p>22 Traffic Jam Events' services, what would the sales rep</p> <p>23 do?</p> <p>24 A. They would then get a sample package together</p> <p>25 and Fed Ex it out to the client or to the prospect.</p>	104	<p>1 basically fill out, you know, when the sale is going to</p> <p>2 take place and how many mail pieces it was going to be.</p> <p>3 If we had a certain printer we were going to send it</p> <p>4 to, they would get with, you know, David on, you know,</p> <p>5 where we were going to send the mailer to and then, you</p> <p>6 know, fill it out and then submit it to the print</p> <p>7 facility.</p> <p>8 Q. What would happen next?</p> <p>9 A. After that, then the job would go into the</p> <p>10 graphic design department and the designers would pick</p> <p>11 it up and start building the mail piece.</p> <p>12 Q. Who would then review the mail piece after the</p> <p>13 graphic design department was done?</p> <p>14 A. They would always send a copy to whoever the</p> <p>15 sales rep was, including managers as well. And then</p> <p>16 they would send it to the dealership. So they would</p> <p>17 cc, you know, multiple people within the company on the</p> <p>18 advertisement, but it would go directly to whoever</p> <p>19 signed off on the advertisement.</p> <p>20 Q. At that point would it go to the dealer?</p> <p>21 A. Yes, it would.</p> <p>22 Q. What happens once the dealer signs off?</p> <p>23 A. Once the dealership approved it, there was</p> <p>24 another step where we would pick ZIP codes. So you</p> <p>25 know, they would tell us, hey, these are the ZIP codes</p>

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106	<p>1 kind of elaborate on what they would do to print or</p> <p>2 produce the mailing piece?</p> <p>3 A. I didn't work on that side of things, but you</p> <p>4 know, they would -- you know, there was different</p> <p>5 presses throughout the facilities that, you know,</p> <p>6 depending on what mail piece we were doing, it would go</p> <p>7 on a certain press.</p> <p>8 Q. Would the printer be the one putting on the</p> <p>9 combo codes and other items we discussed earlier?</p> <p>10 A. Yes, any kind of -- anything to do with the</p> <p>11 mail piece itself, they would fulfill everything.</p> <p>12 Q. Would someone review the final product at</p> <p>13 Traffic Jam Events?</p> <p>14 A. I mean, we always went to, you know, to David</p> <p>15 to make sure it was good with him. There was, you</p> <p>16 know, certain things that, you know, were kind of the</p> <p>17 marketing principles that, you know, we followed by</p> <p>18 that. But other than that, it would come to us. And</p> <p>19 then once the dealership approved it, then it would</p> <p>20 then go to print. And then the print facility would</p> <p>21 then review that as well and just make sure like the</p> <p>22 placements of everything were in the right place, and</p> <p>23 then once they got the final approval, they would do</p> <p>24 it, they would print it.</p> <p>25 Q. And then once it's printed, what would they do</p>	108	<p>1 ever left the company, it always had to go past his</p> <p>2 e-mail first, but this particular client, he usually</p> <p>3 dictated what we were doing for that one.</p> <p>4 Q. And do you know whether the dealer approved the</p> <p>5 COVID mailer before it was sent?</p> <p>6 A. I don't know. I can't say yes or no on that.</p> <p>7 Q. Last couple questions.</p> <p>8 MR. WARCHOLA: You keep promising for the last</p> <p>9 hour you would get the last questions, you know.</p> <p>10 MR. WIDOR: You gave me half an hour to think</p> <p>11 about it.</p> <p>12 MR. WARCHOLA: I know. That's the dangerous</p> <p>13 thing. I was actually thinking that, that giving</p> <p>14 somebody a break before they finish is a dangerous,</p> <p>15 dangerous thing to do.</p> <p>16 BY MR. WIDOR:</p> <p>17 Q. These are going to be the last couple</p> <p>18 questions. I wanted to make sure I understood how the</p> <p>19 combo box ad worked in Exhibit 7, the Landers</p> <p>20 advertisement. Again, we could pull it up if it's</p> <p>21 helpful, but can you explain exactly what a combo box</p> <p>22 is?</p> <p>23 A. It is a little LED product that, it's a box.</p> <p>24 And you know, there's a pull tab on it that says pull</p> <p>25 the tab, and then they will pull the tab and it lights</p>

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<p>1 up a number, a combination number.</p> <p>2 Q. Does the combo box always light up the same</p> <p>3 number?</p> <p>4 A. We would have different ones. So but whatever</p> <p>5 batch of combination boxes we would use, yes, it would</p> <p>6 all be the same number.</p> <p>7 Q. So let's specifically talk about the tent event</p> <p>8 for Madison that was part of Exhibit 7. For that</p> <p>9 event, would the combo box number have been the same?</p> <p>10 MR. BALART: Tom, you sort of -- I just want to</p> <p>11 make sure that the witness could understand your</p> <p>12 question. It sort of dragged in and we sort of got</p> <p>13 reverb and delay.</p> <p>14 BY MR. WIDOR:</p> <p>15 Q. For the tent event in Madison that was part of</p> <p>16 Exhibit 7, do you know whether the combo box had the</p> <p>17 same number on all the mailers?</p> <p>18 A. Yes, it did.</p> <p>19 Q. For that same event, do you know whether the</p> <p>20 official winning code was the same number, 74937?</p> <p>21 A. Yes, it was.</p> <p>22 Q. Do you know whether for this event the winning</p> <p>23 code always matched the combo box on each mailer?</p> <p>24 A. Yes, it did.</p> <p>25 Q. Do you know for this event whether the winning</p>	<p>1 MR. WIDOR: Yeah, so I have it up on Agile.</p> <p>2 It's -- I'll point you to the print below the dates --</p> <p>3 MR. BALART: Are we in 7?</p> <p>4 MR. WIDOR: Yes. If you view the witness</p> <p>5 screen, you should be able to see.</p> <p>6 MR. BALART: Is it the prize board at the</p> <p>7 dealership?</p> <p>8 MR. WIDOR: I'm asking about the prize board</p> <p>9 number field at the bottom of the advertisement and</p> <p>10 whether that was different for each ad.</p> <p>11 MR. BALART: Okay. The question just said the</p> <p>12 prize board, and I just want to make sure the witness</p> <p>13 understood the question. So you are talking about the</p> <p>14 prize board field on the advertisement. Not the prize</p> <p>15 board at the dealership?</p> <p>16 MR. WIDOR: Right.</p> <p>17 MR. WARCHOLA: Tom, can we go back to page 1?</p> <p>18 MR. WIDOR: Aren't we on it?</p> <p>19 MR. WARCHOLA: At least what's being displayed</p> <p>20 on my screen is page 2.</p> <p>21 MR. BALART: Maybe shrink it down a little bit</p> <p>22 so we can see the whole thing.</p> <p>23 MR. WIDOR: How's that?</p> <p>24 MR. BALART: I may be looking at something</p> <p>25 different than what Bob wants to see. Is this page 1</p>
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<p>1 code and combo box matched one of the numbers next to</p> <p>2 the prize panel?</p> <p>3 A. Yes, it did.</p> <p>4 Q. Do you know whether the official winning code</p> <p>5 or combo box number factored in to determining whether</p> <p>6 a person was entitled to win that specified prize?</p> <p>7 MR. BALART: I'm not sure I understand that</p> <p>8 question, so I'm going to object to the form.</p> <p>9 BY MR. WIDOR:</p> <p>10 Q. Do you want me to rephrase it or can you</p> <p>11 answer?</p> <p>12 A. So you are asking if the winning code and</p> <p>13 combination box indicated if they did win a prize?</p> <p>14 Q. Yes.</p> <p>15 A. Yes, if somebody's winning code and combination</p> <p>16 box matched, they were a guaranteed winner of one of</p> <p>17 the prizes listed on the mailer.</p> <p>18 Q. For the tent event, did anyone have a code</p> <p>19 other than 74937?</p> <p>20 A. They did not.</p> <p>21 Q. Do you know whether for the tent event the</p> <p>22 number that appears in the prize board number field</p> <p>23 would be different for each ad?</p> <p>24 MR. BALART: Tom, is there a prize board field</p> <p>25 on the ad?</p>	<p>1 or page 2?</p> <p>2 MR. WARCHOLA: It looks like this is page 2.</p> <p>3 I'm looking -- I have the full display. Then if I go</p> <p>4 to the left, there's the smaller display that shows the</p> <p>5 two pages. What I see is page 2. I would like to see</p> <p>6 page 1. I don't know how to get there.</p> <p>7 MR. BALART: Look at the top left, Bob, there</p> <p>8 should be a box called View As Witness, and hit that</p> <p>9 and you'll see what Tom directs you to.</p> <p>10 MR. WARCHOLA: Toggle panel?</p> <p>11 MR. BALART: It's to the left of Will Lilley's</p> <p>12 name. See that view witness box?</p> <p>13 MR. WARCHOLA: Yeah. Hold on a minute, let's</p> <p>14 see.</p> <p>15 MR. WIDOR: Now I'm getting the witness screen</p> <p>16 to be blank.</p> <p>17 MR. WARCHOLA: Just bear with us just for a</p> <p>18 moment.</p> <p>19 THE WITNESS: I have it in my hand, Tom. What</p> <p>20 was the question on it?</p> <p>21 BY MR. WIDOR:</p> <p>22 Q. Do you know whether the prize board number</p> <p>23 underneath the dates May 28th through June 3rd was</p> <p>24 unique for each ad or mailer that went out?</p> <p>25 A. It was. Any time that dates were put in little</p>

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114	<p>1 A. The prize board number that's on the flyer. 2 MR. WIDOR: Okay. With that, I am going to 3 pass it to Mr. Balart if he has any questions. Do you 4 need me to pass control of Agile? 5 MR. BALART: No. Let's see, Tom, let me try to 6 not do this with Agile and just with how I can do it on 7 Zoom. Let's get started. 8 EXAMINATION 9 BY MR. BALART: 10 Q. Will, unfortunately, I do have questions and I 11 just have to go through some things. Bear with me. 12 It's actually a good jumping off point because 13 I actually wanted to ask you this about 45 minutes ago. 14 Did I hear or just I want to confirm that I heard your 15 testimony the correctly, do you remember when Mr. Widor 16 was asking you about whether recipients of these prize 17 mailers could earn or could win a prize? Do you 18 remember that line of questioning? 19 A. Yes. 20 Q. And your testimony, was your testimony that all 21 recipients of a mailer get a prize? Was that your 22 testimony? 23 A. That is correct. 24 Q. Thank you. You didn't have David review every 25 single ad you ever did while you worked at Traffic Jam,</p>	116	<p>1 e-mail or privy to it because it would just come 2 straight from the designer themselves to David 3 one-on-one. So but that would be a fair assessment. 4 Q. Will, when you were at Traffic Jam, who did you 5 consider your clients or customers to be? 6 A. I had worked there for a long time, so it's a 7 decent list of customers that -- 8 Q. Bad question. Did you consider the general 9 public to be your customers or did you consider the 10 dealers who you were working to sell to, to be your 11 customers? 12 A. I would consider it to be my customer, it would 13 be somebody that I had built a relationship with and 14 have worked with over time. 15 Q. So these would be the automotive dealers that 16 you worked with and contacted with during your period 17 of time at Traffic Jam? 18 A. Correct. 19 Q. You didn't consider the mass general consuming 20 public to be consumers or your clients, did you? 21 A. No, I did not. 22 Q. At any point in time when you were with Traffic 23 Jam, did it ever offer credit to consumers? 24 A. When you say offer credit, meaning? 25 Q. I'll finance your car for the advertisements,</p>

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117	<p>1 the kind of advertisements that Mr. Widor showed you</p> <p>2 previously where you had like the car and zero down,</p> <p>3 219 a month or whatever, was that Traffic Jam offering</p> <p>4 credit to the general public?</p> <p>5 A. No, sir.</p> <p>6 Q. And who, in that instance, is offering credit</p> <p>7 to the general public?</p> <p>8 A. The dealership.</p> <p>9 Q. Was Traffic Jam ever offering or extending</p> <p>10 credit to consumers in any of those mailers that</p> <p>11 Mr. Widor asked you about?</p> <p>12 A. We were not, no, sir.</p> <p>13 Q. That offer of credit was being made by the</p> <p>14 automotive dealership that you were working for,</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. And on that point, isn't it a fact that once</p> <p>18 the advertisement was finalized, and I think you</p> <p>19 testified to this in Mr. Widor's sort of redirect after</p> <p>20 lunch, that in every case, the finalized advertisement</p> <p>21 was sent to the dealer for the dealer's approval before</p> <p>22 it went out; is that correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Before today, have you had any conversations</p> <p>25 with Mr. Widor, Ms. Broadwell, Ms. Shahrabi,</p>	119	<p>1 MR. BALART: Tom, are you guys going to produce</p> <p>2 that recording?</p> <p>3 MR. WIDOR: There is no recording.</p> <p>4 MR. BALART: Are you going to produce any --</p> <p>5 were any documents generated from that investigation or</p> <p>6 that conversation?</p> <p>7 MR. WIDOR: Any documents would have been work</p> <p>8 product.</p> <p>9 MR. BALART: But I haven't seen them on a</p> <p>10 privilege log yet. Can you supplement your privilege</p> <p>11 log?</p> <p>12 MR. WIDOR: We'll review it, but I think it</p> <p>13 covers everything that should be on there.</p> <p>14 MR. BALART: Well, not for a non -- I don't</p> <p>15 know how your conversations with a nonparty witness who</p> <p>16 you, I guess, intend to produce at trial as a</p> <p>17 testifying witness would be subject to work product.</p> <p>18 But as a first instance, we would need to know what</p> <p>19 documents were generated as a result of the</p> <p>20 conversations with Mr. Lilley, if it was recorded, if</p> <p>21 there was any sort of transcript or anything like that.</p> <p>22 So I would respectfully ask that you guys supplement</p> <p>23 your privilege log to that extent, please. Do we have</p> <p>24 an agreement on that?</p> <p>25 MR. WIDOR: We will take a look at our</p>
118	<p>1 Mr. Tankersly or anyone else with the FTC?</p> <p>2 A. I did.</p> <p>3 Q. More than one occasion, Will?</p> <p>4 A. I did.</p> <p>5 Q. How many times have they contacted you to have</p> <p>6 conversations?</p> <p>7 A. A couple times right before or right after</p> <p>8 Christmas just to, you know, interview me about a</p> <p>9 couple things. And then I received a call that the</p> <p>10 case was settled with Traffic Jam Events and that I</p> <p>11 didn't need to call them back. And then I had another</p> <p>12 phone call with -- I can't think of the lady's name off</p> <p>13 the top of my head, but she had called and just</p> <p>14 interviewed me and asked a series of questions.</p> <p>15 Q. Was that Eleni Broadwell?</p> <p>16 A. I don't believe -- I apologize, Eleni, if it</p> <p>17 was, but I don't think it was Eleni.</p> <p>18 Q. Let me try again. Was it Kathleen Nolan?</p> <p>19 A. It was Kathleen, yes, that sounds correct.</p> <p>20 Q. At any point in time in these conversations did</p> <p>21 anyone from the FTC provide you with any documents?</p> <p>22 A. They did not, no.</p> <p>23 Q. Do you know whether or not they recorded the</p> <p>24 interview that they did of you?</p> <p>25 A. I believe she did record it, yes.</p>	120	<p>1 privilege log.</p> <p>2 MR. BALART: And you guys do have a duty to</p> <p>3 supplement discovery requests, right?</p> <p>4 MR. WIDOR: We are still waiting for your</p> <p>5 privilege log and production. So, yeah, we are</p> <p>6 complying with our obligations.</p> <p>7 MR. BALART: Good.</p> <p>8 BY MR. BALART:</p> <p>9 Q. Will, at any point in time, did anyone with the</p> <p>10 FTC try to suggest to you anything about the case?</p> <p>11 A. Meaning as far as, when you say suggest...</p> <p>12 Q. You know, something like "We talked to so-and</p> <p>13 so and they said this", and "What do you think about</p> <p>14 that?", or "We just deposed David and he tried to do</p> <p>15 this; what do you think of that?" Those kind of</p> <p>16 suggestions.</p> <p>17 A. No. They were pretty cordial on the phone and</p> <p>18 didn't do any of that.</p> <p>19 Q. I am going to share my screen. That's the way</p> <p>20 I do the exhibits, Will, so give me two seconds.</p> <p>21 MR. BALART: Tom, you left off at Exhibit 10?</p> <p>22 MR. WIDOR: Yes. Sorry, we left off at</p> <p>23 Exhibit 11. I was looking right at it.</p> <p>24 BY MR. BALART:</p> <p>25 Q. Will, can you see this document?</p>

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121	<p>1 A. I can, yes.</p> <p>2 Q. Could you tell me what this first page is?</p> <p>3 A. It looks like an e-mail from my Traffic Jam</p> <p>4 account to my personal AOL account.</p> <p>5 Q. Was this shortly before you left the company?</p> <p>6 A. Yes, it was.</p> <p>7 Q. And what were you sending yourself on</p> <p>8 November 11, 2020?</p> <p>9 A. An invoice.</p> <p>10 Q. The invoice on the second page of this exhibit?</p> <p>11 A. Yes, sir.</p> <p>12 MR. BALART: For the record, we'll mark this as</p> <p>13 Exhibit 12.</p> <p>14 (Lilley Deposition Exhibit Number 12 was marked</p> <p>15 for identification.)</p> <p>16 BY MR. BALART:</p> <p>17 Q. Actually, Will, I got to do this the</p> <p>18 old-fashioned way because I didn't send this to Bob</p> <p>19 because I didn't know this was going to come up. But</p> <p>20 the third page of the exhibit, is that also your</p> <p>21 Traffic Jam Events e-mail to your AOL.com e-mail?</p> <p>22 A. That's correct.</p> <p>23 Q. And then page 5 of Exhibit 12, is that from</p> <p>24 your Traffic Jam Events to your personal e-mail?</p> <p>25 A. Yes, it is.</p>	123	<p>1 e-mail on December 7th of 2020 to your personal e-mail</p> <p>2 address as a means of having an advertisement to then</p> <p>3 graphically design and send out under the Strictly</p> <p>4 Results Marketing Group banner?</p> <p>5 A. Repeat it one more time. I apologize.</p> <p>6 Q. Is it your testimony that you did not send this</p> <p>7 e-mail to yourself, to your Gmail account on</p> <p>8 December 7, 2020, at 1:22 p.m., so that you could have</p> <p>9 the Mountain View ad in your personal Gmail account for</p> <p>10 future use as Strictly Results Marketing Group?</p> <p>11 MR. WARCHOLA: I'm going to object to that</p> <p>12 question. I don't think that's relevant to anything</p> <p>13 that's going on with the FTC.</p> <p>14 MR. BALART: But it's relevant to his</p> <p>15 testimony, and I'll tie it up in a second. I just want</p> <p>16 to make sure I understand his testimony.</p> <p>17 MR. WARCHOLA: Why don't you explain to me how</p> <p>18 you are going to tie it up, because I'm inclined to</p> <p>19 just tell him not to answer the question because it's</p> <p>20 not related to the FTC lawsuit. I think what you are</p> <p>21 trying to do is use this deposition to conduct</p> <p>22 discovery for the lawsuit that's pending in Louisiana.</p> <p>23 MR. BALART: Bob, that's a fair point. I want</p> <p>24 to make --</p> <p>25 BY MR. BALART:</p>
122	<p>1 Q. Now, that will.lilley91@Gmail.com, that's your</p> <p>2 personal e-mail address?</p> <p>3 A. It is, yes.</p> <p>4 Q. On page 10, same thing, your Traffic Jam Events</p> <p>5 e-mail to your personal Gmail address?</p> <p>6 A. Correct.</p> <p>7 Q. In these e-mails, it looks like you are</p> <p>8 e-mailing a copy of an advertisement that you had been</p> <p>9 using while at Traffic Jam?</p> <p>10 A. Correct.</p> <p>11 Q. Then I want to talk about finally the last</p> <p>12 e-mail, page 15. This is you e-mailing a copy of the</p> <p>13 Mountain View Chevrolet mail piece that had been in use</p> <p>14 at Traffic Jam to your personal e-mail address?</p> <p>15 A. Yes, that is correct.</p> <p>16 Q. Why did you e-mail yourself this Mountain View</p> <p>17 Chevrolet ad?</p> <p>18 A. As I had mentioned earlier in the call,</p> <p>19 sometimes there would be firewalls with the dealership</p> <p>20 or something might get -- you know, be a little glitchy</p> <p>21 with our Outlook account, and the dealership wouldn't</p> <p>22 be able to receive the ads. So sometimes we would have</p> <p>23 to e-mail that to our personal e-mail and then forward</p> <p>24 it on to the dealer.</p> <p>25 Q. Is it your testimony that you didn't send this</p>	124	<p>1 Q. I guess, let me ask you this, then, Will. Is</p> <p>2 it your testimony that this particular ad that you sent</p> <p>3 to your Gmail account so you could then send to it the</p> <p>4 dealer for approval?</p> <p>5 A. Yes.</p> <p>6 Q. The ad that's attached here, when did the</p> <p>7 dealer approve this ad?</p> <p>8 A. I can't say exactly when he did, but around the</p> <p>9 same time that it was sent.</p> <p>10 Q. And have you, as Strictly Results Marketing</p> <p>11 Group, used a similar ad in your business?</p> <p>12 A. No, I have not.</p> <p>13 Q. You have not?</p> <p>14 A. No, sir.</p> <p>15 Q. Have you used, in Strictly Results Marketing</p> <p>16 Group's business have you used advertisements that have</p> <p>17 four matching symbols in an aggressive prize panel?</p> <p>18 MR. WARCHOLA: Again, I'm going to object. I</p> <p>19 don't understand how this is relevant to the FTC</p> <p>20 lawsuit.</p> <p>21 MR. BALART: Our point, Bob, is that this is</p> <p>22 done all over the country, all over the place by</p> <p>23 everyone, and Mr. Widor and his gang have decided to</p> <p>24 make these allegedly aggressive prize panels illegal,</p> <p>25 and we just want to make sure that we are able to</p>

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125	<p>1 present to the Court the standard or at least what else 2 is going on in the industry with other examples so that 3 there can be an evaluation of whether or not these, 4 quote/unquote, aggressive prize panels are false and 5 deceptive, as is being claimed by the FTC. 6 MR. WARCHOLA: Why don't you just ask him the 7 direct question, whether he uses the panels or not. 8 Don't reference any ad that was promoted or used by 9 Traffic Jam. 10 BY MR. BALART: 11 Q. Do you see the prize panel at the bottom left 12 of the page 16 of Exhibit 12 that I'm showing you, 13 Will? 14 A. Yes, I can see it. 15 Q. Do you employ similar prize panels in 16 advertisements that you currently run? 17 A. We have done them, yes. 18 Q. Do you think, as we sit here today, that 19 there's anything false and deceptive about that kind of 20 prize panel? 21 A. Looking at it, no. It says "you could be" on 22 all of them. 23 Q. It doesn't make any promise, and as you 24 testified earlier, everyone who shows up, every 25 consumer who gets one of these mailers, when they show</p>	127	<p>1 A. Correct. That ad would have come from one of 2 our designers or, you know, somebody at Traffic Jam, 3 yes. 4 Q. You would have been involved in the process of 5 sending it over to the dealer for their approval saying 6 this is exactly what we wanted, we approve it, go ahead 7 and send it out, correct? 8 A. Yes. 9 Q. Will, can you see my screen? 10 MR. WARCHOLA: It's blank. 11 MR. BALART: Hold on. Can you see it now, Bob? 12 MR. WARCHOLA: Yes. Is it in the upper 13 left-hand corner it says Call 321-384 -- 14 MR. BALART: Yes. And Bob, to speed this up, 15 this is within the group of documents that I sent you. 16 And I'm happy to not pull each one up and just verbally 17 talk it through. This starts at Exhibit 4. 18 MR. WARCHOLA: This one will be Exhibit 4? 19 MR. BALART: No. It's Exhibit 4 to the Nolan 20 deposition. I'll make this Exhibit 13 to Mr. Lilley -- 21 MR. WARCHOLA: Okay. That's what confused me. 22 Your documents got out of order, but let's just work 23 through it and try and get -- 24 MR. BALART: Yeah, I'm trying to make this as 25 painless and quick as possible.</p>
126	<p>1 up or if they show up at the dealership, they actually 2 do win a prize, correct? 3 A. That's correct. If it's stated on the mailer 4 that they could or they have won a prize, then they 5 absolutely get a free gift just for coming down. 6 Q. And there's nothing in this prize panel that 7 says you've won a specific prize, is there? 8 A. No, there's not. 9 Q. The Regal Kia e-mail which is on page 18 of 10 Exhibit 12, was Regal Kia one of your clients? 11 A. It was one of the sales reps' clients that I 12 did personally help out with. 13 Q. So when you were in the process of coordinating 14 with Kia Regal about what particular ads they wanted, 15 you would have been the person interfacing with Kia 16 Regal, correct? 17 A. Myself or, I mean, there would be a few of us 18 sometimes that would talk to one particular dealer. So 19 yeah, multiple people, you know, had service and 20 handled that account. 21 Q. So that Regal Kia ad that Mr. Widor asked you, 22 and I forget which exhibit it ended up being, but that 23 Regal Kia ad would have been one that you most likely 24 sent over to the dealer for their approval before it 25 went out to the general public, correct?</p>	128	<p>1 (Lilley Deposition Exhibit Number 13 was marked 2 for identification.) 3 BY MR. BALART: 4 Q. Will, is this an ad that you generated on 5 behalf of Strictly Results Marketing Group? 6 A. Yes, sir, it is. 7 Q. Is there anything -- I mean, you seem like a 8 pretty reasonable guy. Do you consider yourself to be 9 a reasonable person? 10 A. Yes. 11 Q. Would you take that check that you see on the 12 second page and try and cash it at the bank? 13 A. No, I wouldn't. 14 Q. Why not, Will? 15 A. Well, first it says "voucher". And then it 16 says "downpayment" on it. And then it's also disclosed 17 in the bottom copy as far as what it is. 18 Q. In other words, that it's not a check? 19 A. Correct. 20 Q. Does it have a bank on it? Could you go to a 21 bank and say, hey, you owe me this money because 22 there's a name of a bank on here? 23 A. No. It has the dealership's logo on it, 24 implying it's redeemable there. 25 Q. And not at a financial institution, correct?</p>

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129	<p>1 A. Correct.</p> <p>2 Q. The t credit terms on the right-hand side of</p> <p>3 page 2 of Exhibit 13, are those credit terms that you</p> <p>4 are offering to the public?</p> <p>5 A. No. Those are what the dealership is offering.</p> <p>6 Q. So that's not something that Strictly Results</p> <p>7 Marketing is offering or sending to consumers, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Moving right along to what we'll mark as</p> <p>10 Exhibit 14.</p> <p>11 (Lilley Deposition Exhibit Number 14 was marked</p> <p>12 for identification.)</p> <p>13 MR. BALART: Bob, can you still see?</p> <p>14 MR. BALART: It's Exhibit 5, what was used as</p> <p>15 Exhibit 5 in Ms. Nolan's deposition.</p> <p>16 MR. WARCHOLA: Okay. You are going to mark</p> <p>17 this one as 14?</p> <p>18 MR. BALART: Exhibit 14.</p> <p>19 MR. WARCHOLA: And you have four pages, right?</p> <p>20 MR. BALART: That is correct.</p> <p>21 BY MR. BALART:</p> <p>22 Q. Will, is this an ad that your company, Strictly</p> <p>23 Results Marketing Group, has generated?</p> <p>24 A. It is.</p> <p>25 Q. Do you think any reasonable person reading this</p>	131	<p>1 anyone with a brain that they are not affiliated with</p> <p>2 the U.S. government; is that fair to say?</p> <p>3 A. Yes, that's fair.</p> <p>4 Q. And this particular ad has a prize panel in it?</p> <p>5 A. Yes, that's correct.</p> <p>6 Q. And the prize panel, at least the scratch-off,</p> <p>7 seems to suggest that the recipient has already won a</p> <p>8 prize, correct?</p> <p>9 A. Yes, that is correct.</p> <p>10 Q. Are those what Mr. Widor likes to call the,</p> <p>11 quote/unquote, aggressive prize panels?</p> <p>12 A. No. This would not fall under that category.</p> <p>13 Q. Okay. What category does this fall under?</p> <p>14 A. It's the standard prize panel.</p> <p>15 Q. Who tells you -- as the owner of Strictly</p> <p>16 Results Marketing, who tells you whether they want this</p> <p>17 kind of prize panel, that kind of prize panel, the</p> <p>18 aggressive prize panel, the not so aggressive prize</p> <p>19 panel? Who directs you in that regard?</p> <p>20 A. It would just depends on the client themselves.</p> <p>21 Q. Isn't it true that the client is the entity</p> <p>22 that tells you whether or not they want to use an</p> <p>23 aggressive prize panel or something else?</p> <p>24 A. Correct.</p> <p>25 Q. And all you are doing is filling the order of</p>
130	<p>1 would affiliate either Strictly Results Marketing Group</p> <p>2 or Cocoa Hyundai with the U.S. government?</p> <p>3 A. If they would do what? I apologize.</p> <p>4 Q. If they would affiliate either -- well, let me</p> <p>5 break it up. Do you think any reasonable person</p> <p>6 looking at this ad would affiliate Strictly Results</p> <p>7 Marketing Group with the U.S. government?</p> <p>8 A. No.</p> <p>9 Q. Do you think any reasonable person looking at</p> <p>10 this ad would affiliate Cocoa Hyundai with the U.S.</p> <p>11 government?</p> <p>12 A. Not at all.</p> <p>13 Q. Do you think any reasonable person looking at</p> <p>14 this ad, receiving it in their mail, would think that</p> <p>15 they could come to Cocoa Hyundai and get their tax</p> <p>16 return processed?</p> <p>17 A. No, I don't.</p> <p>18 Q. Why did you answer no to all of the questions I</p> <p>19 just asked?</p> <p>20 A. Just because it's got a bunch of car</p> <p>21 advertisements on it and different things that, you</p> <p>22 know, the government or you would never see typically</p> <p>23 with your tax return.</p> <p>24 Q. The context of the ad, Will, is what you are</p> <p>25 telling me, the overall context of the ad signifies to</p>	132	<p>1 your client, correct?</p> <p>2 A. Yes.</p> <p>3 Q. So in developing this ad for your customer,</p> <p>4 your customer said, Hey Will, what I would really like</p> <p>5 to add to this is an aggressive prize panel, you would</p> <p>6 pull one off the shelf, put it into the graphics and</p> <p>7 send it over for their approval?</p> <p>8 A. Yes.</p> <p>9 Q. You wouldn't take that check on the bottom of</p> <p>10 page 2 to your local bank and try and cash it, would</p> <p>11 you?</p> <p>12 A. I wouldn't, no, sir. It says on this</p> <p>13 particular one "This is not a check".</p> <p>14 MR. BALART: Moving right along, Bob, the next</p> <p>15 one I'm going to use is what was marked as Exhibit 6 to</p> <p>16 Ms. Nolan's deposition. We'll mark this as Exhibit 15.</p> <p>17 (Lilley Deposition Exhibit Number 15 was marked</p> <p>18 for identification.)</p> <p>19 BY MR. BALART:</p> <p>20 Q. Will, is this another deal or no deal ad you</p> <p>21 did for a client while at Strictly Results Marketing</p> <p>22 Group?</p> <p>23 A. Yes, it was.</p> <p>24 Q. And we've got another check, but it's got the</p> <p>25 word "voucher" on it. Do you feel that there's a</p>

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1 specific connotation given to the general public when
 2 you use the word "voucher"?

3 A. I would assume so, yes.

4 **Q. Is that why you guys picked the word "voucher"?**

5 A. Correct.

6 **Q. You are trying to signify to the public that**
 7 **they can come redeem to the cash equivalent stated**
 8 **herein, if they meet certain conditions, this ad for a**
 9 **cash equivalent at the dealership?**

10 A. Yes, that is correct.

11 **Q. Is that a pretty common tactic used in the**
 12 **advertising sales business?**

13 A. It is. Yeah, I would say it's common.

14 **Q. And it's been a long time since I looked at a**
 15 **newspaper, but aren't there a ton of newspapers that**
 16 **carry ads for dealers every Sunday and Saturday that**
 17 **have tiles like this on the right with credit offers**
 18 **with a little footnote that you then got to go read the**
 19 **fine print on? Doesn't that happen every day, all day,**
 20 **all over the place?**

21 A. As far as newspapers go, it's probably been
 22 longer for me since I have read one than you, but, yes,
 23 I have seen it just like that before on there, yes.

24 **Q. I mean, we could go pull the Tampa Tribune --**
 25 **is it the Tampa Tribune? Is that the paper in Tampa?**

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1 MR. WARCHOLA: No. The Tampa Times.
 2 BY MR. BALART:

3 **Q. We could go buy a Saturday and Sunday, weekend**
 4 **edition of the Tampa Times and we could just sum**
 5 **through pages and pages of little tiles just like**
 6 **what's shown on the second page of Exhibit 15 with the**
 7 **little asterisk or the little number sending you back**
 8 **down to the fine print, couldn't we, Will?**

9 A. Yeah, that's fair to say.

10 **Q. That's what I thought. And it has been a long**
 11 **time since I have read a newspaper. Do you think**
 12 **there's anything wrong with that, Will?**

13 A. No.

14 **Q. Doesn't everyone with a brain know to read the**
 15 **fine print?**

16 A. I would suppose nowadays it's more common than
 17 it's ever been.

18 MR. BALART: Bob, the next one I want to look
 19 at is what was marked as Exhibit 7 in Ms. Nolan's
 20 deposition. We'll mark that as Exhibit 16.
 21 (Lilley Deposition Exhibit Number 16 was marked
 22 for identification.)

23 BY MR. BALART:

24 **Q. Will, is this another copy of an ad that you**
 25 **generated as Strictly Results Marketing Group?**

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1 A. Yes, sir, it is.

2 **Q. When the general public receives this ad, who**
 3 **do they -- is there anything to signify anywhere in**
 4 **this document that they have received an offer from**
 5 **Strictly Results Marketing Group?**

6 A. No, there is not.

7 **Q. And isn't it a fact, sir, that for anyone who**
 8 **received one of these, the only party who they think**
 9 **are making them an offer is Brandon Nissan?**

10 A. Correct.

11 **Q. And that applies to the offers of credit, the**
 12 **offers of the prizes and anything else that's in this**
 13 **advertisement, correct?**

14 A. Yes.

15 **Q. You don't see the words Strictly Results**
 16 **Marketing Group anywhere in here, do you?**

17 A. No, I do not.

18 MR. BALART: Bob, we are going chronologically
 19 or numerical. We are now in Exhibit 8 from Ms. Nolan's
 20 deposition which I'll mark as Exhibit 17 to this.
 21 (Lilley Deposition Exhibit Number 17 was marked
 22 for identification.)

23 BY MR. BALART:

24 **Q. Will, is this another copy of an ad that you**
 25 **generated post December of 2020 for Strictly Results**

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1 **Marketing Group?**

2 A. Yes, it is.

3 **Q. And so I can speed up, can we agree that all of**
 4 **the ads you generated on behalf of Strictly Results**
 5 **Marketing Group would have been after you left Traffic**
 6 **Jam in the middle of December 2020?**

7 A. Yes, that is correct.

8 **Q. So it would have been after you knew that the**
 9 **FTC had initiated a complaint against Traffic Jam?**

10 A. Yes, that is correct.

11 **Q. The first page, does the first page contain**
 12 **what Mr. Widor likes to call an aggressive prize panel?**

13 A. Yes, it does.

14 **Q. And this would have been the same kind of prize**
 15 **panel that he was asking you about in connection with,**
 16 **I think it was the -- Bob, do you have those exhibits?**
 17 **Was it Exhibit 6, 7 or 8 or was it all three?**

18 MR. WARCHOLA: Can you identify the exhibit?

19 MR. BALART: Tom, can you somehow unclawback
 20 all of the exhibits so we can look at them? Is that
 21 possible, Tom?

22 MR. WIDOR: I think so. Hold on. I don't know
 23 if there's a way -- I think I can only go one by one.

24 MR. BALART: Whatever you did, I now have
 25 access to at least 1 through 8. So you have done it.

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137	<p>1 BY MR. BALART:</p> <p>2 Q. So Will, take a quick glance at Exhibit 8 and</p> <p>3 just confirm for me, please, that the --</p> <p>4 MR. WARCHOLA: I don't have Exhibit 8. Whoever</p> <p>5 printed the documents did not print Exhibit 8. I do</p> <p>6 have Exhibit 11, but I don't have 8, 9 or 10. Can you</p> <p>7 use 7?</p> <p>8 MR. BALART: Let me see. Yeah, we can. We can</p> <p>9 look at 7. My apologies, Bob.</p> <p>10 BY MR. BALART:</p> <p>11 Q. Will, I want to confirm that the prize panel</p> <p>12 that Mr. Widor was asking you about on Exhibit 7 is</p> <p>13 similar to the prize panel that's shown on current</p> <p>14 Exhibit 17.</p> <p>15 A. Can you share it on your screen, Etienne?</p> <p>16 Q. I can, Will. Let me see if I can do that. Can</p> <p>17 you see that?</p> <p>18 A. Yes.</p> <p>19 Q. That is FTC Exhibit 7 or Exhibit 7 to your</p> <p>20 deposition. And let me see if I can move over to the</p> <p>21 prize panel. Can you see the prize panel now?</p> <p>22 A. Yes, I can.</p> <p>23 Q. Is the prize panel on FTC Exhibit 7 similar to</p> <p>24 the prize panel on Exhibit 17?</p> <p>25 A. Yes, it is.</p>	139	<p>1 indicating any of the prizes or anything.</p> <p>2 Q. It also uses the word "may", correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Isn't it a fact that at least one person on</p> <p>5 this mailer could have won \$5,000 cash had they shown</p> <p>6 up at the dealership?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So there's nothing false about this little</p> <p>9 prize panel, is there?</p> <p>10 A. Correct, no, sir.</p> <p>11 Q. Moving along to what was Nolan Exhibit 11,</p> <p>12 we'll mark as Exhibit 20.</p> <p>13 (Lilley Deposition Exhibit Number 20 was marked</p> <p>14 for identification.)</p> <p>15 BY MR. BALART:</p> <p>16 Q. Is this advertisement one that you generated on</p> <p>17 behalf of Strictly Results Marketing Group?</p> <p>18 A. Yes, it is.</p> <p>19 Q. Do you think anyone who got this ad would think</p> <p>20 that Five Star Mitsubishi in Altoona, which I think is</p> <p>21 in Alabama, isn't it?</p> <p>22 MR. WARCHOLA: No, it's Pennsylvania.</p> <p>23 BY MR. BALART:</p> <p>24 Q. Pennsylvania. Do you think anyone who received</p> <p>25 this mailer would think that Five Star Mitsubishi</p>
138	<p>1 Q. Moving right along, we will look at what was</p> <p>2 Nolan Exhibit 9, which we will mark as Exhibit 18.</p> <p>3 (Lilley Deposition Exhibit Number 18 was marked</p> <p>4 for identification.)</p> <p>5 BY MR. BALART:</p> <p>6 Q. Will, is this an ad that you created on behalf</p> <p>7 of Strictly Results Marketing Group?</p> <p>8 A. Yes, it is.</p> <p>9 Q. Now we'll move to a document we'll mark as</p> <p>10 Exhibit 19, which was Exhibit 10.</p> <p>11 (Lilley Deposition Exhibit Number 19 was marked</p> <p>12 for identification.)</p> <p>13 BY MR. BALART:</p> <p>14 Q. Is this also an ad you created for Strictly</p> <p>15 Results Marketing Group?</p> <p>16 A. Yes, it is.</p> <p>17 Q. With respect to Exhibit 19, do you think that</p> <p>18 the prize panel on the bottom right-hand corner of the</p> <p>19 first page is false or deceptive?</p> <p>20 A. No, I do not.</p> <p>21 Q. And could you explain for us why you don't</p> <p>22 think that it's a false and deceptive ad?</p> <p>23 A. Because it says if you have four matching</p> <p>24 symbols, you may be a winner of the 5,000. And the</p> <p>25 only symbols that match are just truck images, not</p>	140	<p>1 Altoona is affiliated or approved by the U.S.</p> <p>2 government?</p> <p>3 A. No, I do not.</p> <p>4 Q. Is there a reason why you put in the 1040 tax</p> <p>5 form on this particular ad?</p> <p>6 A. Yeah, the client wanted to advertise something</p> <p>7 around tax season, so they wanted to put something</p> <p>8 similar.</p> <p>9 Q. It's a marketing gimmick, isn't it?</p> <p>10 A. Correct.</p> <p>11 Q. To get people thinking, hey, you get your tax</p> <p>12 return, come in, come visit me to buy a car, right?</p> <p>13 A. Right. That was the idea of it.</p> <p>14 Q. Nobody then goes to Five Star Mitsubishi</p> <p>15 Altoona and says, hey, where is my tax refund, do they?</p> <p>16 A. No, not at all.</p> <p>17 Q. That would be patently unreasonable of a</p> <p>18 consumer, don't you think?</p> <p>19 A. It would be a little farfetched, yes.</p> <p>20 Q. Have you ever gotten a complaint from Altoona</p> <p>21 Five Star Mitsubishi that said stop running this ad;</p> <p>22 we've got all these people showing up at our lot</p> <p>23 looking for their tax refund?</p> <p>24 A. Never.</p> <p>25 Q. In fact, you never got a complaint like that at</p>

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<p>1 any point in your involvement in the auto ad sales 2 business, have you? 3 A. I have not, no. 4 Q. Moving right along to what was Nolan 12, which 5 we'll mark as Exhibit 21. 6 (Lilley Deposition Exhibit Number 21 was marked 7 for identification.) 8 BY MR. BALART: 9 Q. This is one of my favorites, Will. Coastal 10 Hyundai, is that a client of yours? 11 A. It is. 12 Q. Do you see the first page of Exhibit 21? 13 A. Yes, I do. 14 Q. Do you think anyone who looked at that thought 15 that that was an official check from the U.S. Treasury 16 that they could cash? 17 A. No, not at all. 18 Q. Now, there's a likeness of the Statue of 19 Liberty on there, isn't there? 20 A. Yes. 21 Q. What do you think is more familiar to the 22 reasonable consumer, the Statue of liberty or the Great 23 Seal of the United States? 24 A. I couldn't answer that question. 25 Q. You couldn't?</p>	<p>1 A. Rephrase that one more time. I apologize. 2 Q. Yeah, I'm going to withdraw the question. Bad 3 question. 4 These ads and all the ads we just looked at, 5 Will, with Strictly Results, these are the kind of ads 6 that automotive dealers are putting out every day in 7 every way out to all sorts of citizens of the United 8 States, correct? 9 A. That's correct. 10 Q. In fact, there is so much saturation in the 11 market that one of your -- one of the hurdles in the 12 automotive ad business is how savvy the customer 13 consumer has gotten to receiving these kind of ads, 14 right? 15 A. Yes. 16 Q. The research that Mr. Widor was asking about 17 and all that, that research and the results, that's 18 tracked by your dealers, your clients, isn't it? 19 A. Yes, amongst the, you know, call center and 20 stuff like that and how we track it. But most 21 commonly, it's by the dealership. 22 Q. I mean, they know firsthand what works and what 23 doesn't, correct? 24 A. Correct. 25 Q. And then they are the ones that are telling</p>
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<p>1 A. I don't know whether one way or the other. 2 Q. Would you agree with me that the Statue of 3 Liberty is probably a more commonly understood symbol 4 of the United States than the Great Seal? 5 A. Yeah, I would say that's correct. 6 Q. But that doesn't change your opinion that no 7 one with a brain who looks at this would think that 8 Coastal Hyundai is somehow sanctioned, authorized or 9 approved to act for the U.S. government, correct? 10 A. Correct. 11 Q. But obviously, as a marketing gimmick, you are, 12 again, wanting to invoke in the consumer's eyes, hey, 13 you know, use your tax refund, come down and buy a new 14 car, correct? 15 A. Correct. 16 Q. Do you think there's anything wrong with that? 17 A. I think people do it all the time. 18 Q. In fact, if tens of thousands of automotive 19 dealers all over the country weren't doing this all the 20 time, you wouldn't be in business, would you? 21 A. I would venture to say no. 22 Q. And does it strike you as odd that the FTC 23 is -- somehow has no problem with all these ads that go 24 on all the time every day in the U.S. to buy 25 automobiles?</p>	<p>1 you, hey, Will, this is a good one, this works, this 2 brings people to our auto dealer to buy cars. Not to 3 get their tax refund or their stimulus voucher or 4 whatever. Do more of this, right? 5 A. Correct. 6 Q. Last one for this purpose, Will, and we'll move 7 on. This is Nolan 13 which we'll mark as Exhibit 22. 8 (Lilley Deposition Exhibit Number 22 was marked 9 for identification.) 10 BY MR. BALART: 11 Q. Was this an ad that you generated and created 12 on behalf of Strictly Results Marketing Group? 13 A. Yes, it is. 14 Q. All right, Will, I'm going to move on to what 15 I'll mark as Exhibit 23. 16 (Lilley Deposition Exhibit Number 23 was marked 17 for identification.) 18 BY MR. BALART: 19 Q. I'll share my screen. Do you recognize this 20 document, Will? 21 A. I do. 22 Q. What is it? 23 A. That was my resignation letter from Traffic 24 Jam. 25 Q. When you created this, did you consider</p>

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146	<p>1 Q. So if clients stopped buying because the FTC</p> <p>2 complaint made Traffic Jam "too hot", then that meant</p> <p>3 that you were going to earn less in sales commissions,</p> <p>4 right?</p> <p>5 A. Yes, it did -- it could have effect and it did</p> <p>6 have an effect on everybody.</p> <p>7 Q. Not just you. It had an effect on everybody at</p> <p>8 the company, right?</p> <p>9 A. Correct.</p> <p>10 Q. On a scale of 1 to 10, with 1 being total flop</p> <p>11 and 10 being an absolute stunning success, how bad --</p> <p>12 or excuse me, where would you score what Mr. Widor</p> <p>13 showed you as Exhibit 1, which if you don't have it in</p> <p>14 front of you, I can share it, in terms of</p> <p>15 advertisement?</p> <p>16 MR. WARCHOLA: I'm going to object to the form.</p> <p>17 MR. BALART: Let me rephrase, Bob. Do you have</p> <p>18 Exhibit 1 printed?</p> <p>19 MR. WARCHOLA: I do.</p> <p>20 BY MR. BALART:</p> <p>21 Q. Will, I guess, just directly, I'm trying to get</p> <p>22 you to rank, because obviously you are in the business</p> <p>23 to succeed, right? You are in the business to generate</p> <p>24 ads that drive traffic to your clients, right?</p> <p>25 A. Correct.</p>	148	<p>1 sir.</p> <p>2 Q. And are you aware of any such calls ever being</p> <p>3 made to anyone at Traffic Jam?</p> <p>4 A. Not that I'm aware of, no.</p> <p>5 Q. This will be Exhibit 24.</p> <p>6 (Lilley Deposition Exhibit Number 24 was marked</p> <p>7 for identification.)</p> <p>8 BY MR. BALART:</p> <p>9 Q. Can you see it on your screen, Will?</p> <p>10 A. Yes.</p> <p>11 Q. Do you remember doing some due diligence and</p> <p>12 looking to see why the Florida AG had initiated a</p> <p>13 complaint against Traffic Jam?</p> <p>14 A. Do I remember why I looked it up?</p> <p>15 Q. No, no, do you remember doing some due</p> <p>16 diligence? Do you remember looking in to see, hey, why</p> <p>17 is the Florida AG making noise about the stimulus</p> <p>18 mailer?</p> <p>19 A. Yes.</p> <p>20 Q. Were you able to locate the source of that</p> <p>21 complaint?</p> <p>22 A. Yes, we did find out who the guy was that did</p> <p>23 it.</p> <p>24 Q. And is this a copy of the e-mail linking to</p> <p>25 that gentleman's Facebook page or YouTube page?</p>

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150	<p>1 he?</p> <p>2 A. No, he wasn't.</p> <p>3 Q. And you had actually -- you accessed that</p> <p>4 YouTube.com site and looked through all of the content</p> <p>5 as it existed back in May of 2020, didn't you?</p> <p>6 A. I did. I was looking through some of it.</p> <p>7 Q. Did I hear your testimony correctly that in</p> <p>8 Texas the AG approves all of the ads that go out?</p> <p>9 A. No. I had mentioned in Texas there's a few of</p> <p>10 our clients that we had worked with that had their own</p> <p>11 internal compliance departments that were paid to kind</p> <p>12 of be up on top of that. So...</p> <p>13 Q. So that goes to the point where you sent it off</p> <p>14 to the dealer for their approval, and you don't know</p> <p>15 what they do, but whatever they do, which would include</p> <p>16 this kind of review, you know, if they tell you, you</p> <p>17 know about it, but if they don't tell you, they are</p> <p>18 doing it on their own, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Will, back to Exhibit 1 for a second, do you</p> <p>21 think anyone, any reasonable consumer reading Exhibit 1</p> <p>22 would think that the sale advertised in that document</p> <p>23 was sanctioned by the U.S. government?</p> <p>24 A. I don't see anywhere, other than referencing</p> <p>25 the COVID-19 economic, you know, crisis and everything,</p>	152	<p>1 task, he would help with the call center, yes.</p> <p>2 Q. So when you were at Traffic Jam, you were</p> <p>3 working with Josh in that capacity, but Josh was also</p> <p>4 working in a different -- he was working for that</p> <p>5 company; fair?</p> <p>6 A. Platinum Plus, yes.</p> <p>7 Q. And then since you left Traffic Jam, you now</p> <p>8 work individually with Josh, and he's doing basically</p> <p>9 the same things that he did for you while you were at</p> <p>10 Traffic Jam, correct?</p> <p>11 A. Yeah, that would be fair. He's not technically</p> <p>12 working for us, but he's helping and you know, doing it</p> <p>13 basically on the side from his regular everyday job.</p> <p>14 Q. I didn't mean to suggest he was an employee of</p> <p>15 yours. He is an independent guy who you pay to do the</p> <p>16 kind of things he did for Traffic Jam?</p> <p>17 A. Correct.</p> <p>18 Q. Exhibit 8, and if you don't have it in front of</p> <p>19 you -- I'm wrapping up, Will. Exhibit 8 was the money</p> <p>20 card.</p> <p>21 MR. BALART: Bob, do you have that?</p> <p>22 MR. WARCHOLA: No. That's one of the exhibits</p> <p>23 that I didn't -- that wasn't copied out of the bunch.</p> <p>24 So you are going to have to go back and probably if you</p> <p>25 could release it, I guess.</p>

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154	<p>1 a crime?</p> <p>2 A. I have.</p> <p>3 Q. For the record, could you tell us what crime or</p> <p>4 crimes you have been convicted of?</p> <p>5 MR. WARCHOLA: I think the question should be</p> <p>6 limited to whether you have been convicted of a felony.</p> <p>7 MR. BALART: Fair enough, Bob. I'm happy with</p> <p>8 that limitation.</p> <p>9 THE WITNESS: Yes, I have.</p> <p>10 BY MR. BALART:</p> <p>11 Q. Could you, for the record, just tell us,</p> <p>12 please, in as few words as possible.</p> <p>13 MR. WARCHOLA: Just give me one second.</p> <p>14 MR. BALART: Bob, this would be a good breaking</p> <p>15 point, because that's really my last area of</p> <p>16 questioning. Give me about five minutes. I just want</p> <p>17 to chat with David and make sure I have covered</p> <p>18 everything. Why don't you take five minutes and talk</p> <p>19 to Will about that and we'll go from there.</p> <p>20 (A recess was taken.)</p> <p>21 BY MR. BALART:</p> <p>22 Q. Mr. Lilley, within the last ten years, have you</p> <p>23 been convicted of a felony?</p> <p>24 A. Yes.</p> <p>25 Q. When and what was the crime for which you were</p>	156	<p>1 want specifics as to what happened or whatever. Just</p> <p>2 the name of the crime for which the conviction was</p> <p>3 made.</p> <p>4 MR. WARCHOLA: And I think under the rule that</p> <p>5 you have to ask him if he's been convicted of a</p> <p>6 specific felony. You are supposed to have the nature</p> <p>7 of the charge and ask him that. That's my objection</p> <p>8 for lack of foundation.</p> <p>9 MR. BALART: I think he can still answer the</p> <p>10 question, and I'll move on --</p> <p>11 MR. WARCHOLA: No, I'm instructing him not to</p> <p>12 answer. We can take it up with the judge.</p> <p>13 MR. BALART: Okay.</p> <p>14 BY MR. BALART:</p> <p>15 Q. Mr. Lilley, have you ever been convicted of a</p> <p>16 crime, regardless of the punishment, where the elements</p> <p>17 of the crime required proving or your admission of a</p> <p>18 dishonest act or false statement?</p> <p>19 A. Yes.</p> <p>20 Q. And is this separate and apart from the felony</p> <p>21 conviction or is it the felony conviction?</p> <p>22 A. It's a part of the conviction.</p> <p>23 Q. And have you been convicted more than once for</p> <p>24 a crime that I have previously described as either a</p> <p>25 felony or involving a dishonest act or false statement?</p>

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157	<p>1 A. Yes.</p> <p>2 Q. How many times?</p> <p>3 A. Two times.</p> <p>4 Q. I'm sorry, three?</p> <p>5 A. No, two times.</p> <p>6 Q. And for both of those instances, have you been</p> <p>7 pardoned, has the conviction been annulled or have you</p> <p>8 received a certificate of rehabilitation?</p> <p>9 A. I have not.</p> <p>10 MR. BALART: Mr. Lilley, again, Bob, my</p> <p>11 apologies for having to go into that. I'm not even</p> <p>12 going to use that. I would like to mark all that as</p> <p>13 protected, but we can't seem to get an agreement. I</p> <p>14 don't have any further questions for you at this time.</p> <p>15 Will, I appreciate the time that you did devote to us</p> <p>16 today, and I wish you well.</p> <p>17 THE WITNESS: Thank you.</p> <p>18 FURTHER EXAMINATION</p> <p>19 BY MR. WIDOR:</p> <p>20 Q. Mr. Lilley, I just have one follow-up question.</p> <p>21 Were any of the --</p> <p>22 MR. BALART: Bob, hold him to it, Bob.</p> <p>23 BY MR. WIDOR:</p> <p>24 Q. Were any of the advertisements that Mr. Balart</p> <p>25 showed you at Exhibits 13 to 22 developed by Traffic</p>	159	<p>1 testified to. And frankly, I agree with Bob's point</p> <p>2 here, I don't see the relevance to the question in</p> <p>3 light of the earlier objection and instruction not to</p> <p>4 answer. So if it's good for the goose, it's got to be</p> <p>5 good for the gander.</p> <p>6 BY MR. WIDOR:</p> <p>7 Q. Were any of the exhibits, from 13 through 22,</p> <p>8 created by Traffic Jam Events?</p> <p>9 MR. BALART: Objection to the extent that that</p> <p>10 question has already been answered in the witness'</p> <p>11 testimony.</p> <p>12 MR. WARCHOLA: Hold on a minute.</p> <p>13 THE WITNESS: I apologize, Tom, I misunderstood</p> <p>14 the question. But it's no.</p> <p>15 BY MR. WIDOR:</p> <p>16 Q. Thank you. That's all the questions I have.</p> <p>17 Are there any -- I just do want to have the final</p> <p>18 wrap-up question. Are there any answers you wish to</p> <p>19 change before we conclude today's deposition?</p> <p>20 A. Not at this moment.</p> <p>21 Q. Is there any information I asked about that you</p> <p>22 didn't recall when I first asked but remember now?</p> <p>23 A. Not at the moment, no, sir.</p> <p>24 Q. Are there any documents that you could review</p> <p>25 that would help you remember more information about any</p>
158	<p>1 Jam Events?</p> <p>2 MR. BALART: What do you mean by developed,</p> <p>3 Tom? And Tom, I would like to know that there is a</p> <p>4 pending lawsuit in the Eastern District involving sort</p> <p>5 of what I would loosely call trade secrets litigation.</p> <p>6 So Bob, I don't know how you feel about this answer.</p> <p>7 BY MR. WIDOR:</p> <p>8 Q. Were any of the exhibits from 13 to 22 created</p> <p>9 prior to your departure from Traffic Jam Events in</p> <p>10 December of 2020?</p> <p>11 MR. BALART: I don't think that's possible</p> <p>12 since he testified he created them. But subject to the</p> <p>13 objection, I guess he can answer if his counsel lets</p> <p>14 him.</p> <p>15 MR. WARCHOLA: We'll answer. Why it's relevant</p> <p>16 in this litigation, as I made earlier objections with</p> <p>17 respect to defense counsel's questioning, I don't know</p> <p>18 how it relates to FTC's claim against Traffic Jam in</p> <p>19 this matter.</p> <p>20 MR. BALART: I think, Bob --</p> <p>21 MR. WIDOR: I want to make clear what ads are</p> <p>22 Traffic Jam Events and which ones are not.</p> <p>23 MR. BALART: No, but that's confusing and</p> <p>24 conflating the issues, Tom. They are Strictly</p> <p>25 Marketing Results Group ads. That's what the witness</p>	160	<p>1 of the questions we covered today?</p> <p>2 A. No, sir, not at the moment.</p> <p>3 MR. WIDOR: Thank you, Mr. Lilley. That's all</p> <p>4 the questions. And we can conclude the deposition.</p> <p>5 MR. BALART: Bob, I assume he wants to read and</p> <p>6 sign?</p> <p>7 MR. WARCHOLA: You didn't let me have a chance</p> <p>8 to ask that, but, yes, we would like to read and sign.</p> <p>9 (Reading and signature not waived.)</p> <p>10 (Whereupon, the proceedings at 2:54 p.m., were</p> <p>11 concluded.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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161	<p>1 STATE OF MARYLAND, to wit:</p> <p>2 I, Deborah Wehr, before whom the foregoing</p> <p>3 deposition was taken, do hereby certify that the</p> <p>4 within-named witness personally appeared before me at</p> <p>5 the time and place herein set out, and after having</p> <p>6 been duly sworn by me, according to law, was examined</p> <p>7 by counsel.</p> <p>8 I further certify that the examination was</p> <p>9 recorded stenographically by me and this transcript is</p> <p>10 a true record of the proceedings.</p> <p>11 I further certify that I am not of counsel to</p> <p>12 any party, nor an employee of counsel, nor related to</p> <p>13 any party, nor in any way interested in the outcome of</p> <p>14 this action.</p> <p>15 As witness my hand and notarial seal this</p> <p>16 16th day of July, 2021.</p> <p>17</p> <p>18</p> <p>19 s/Deborah Wehr</p> <p>20 Deborah Wehr</p> <p>21 Notary Public</p> <p>22 MY COMMISSION EXPIRES: 3/22/2023</p> <p>23</p> <p>24</p> <p>25</p>	163	<p>1 WITNESS: WILLIAM LILLEY</p> <p>2 DATE: JULY 8, 2021</p> <p>3 CASE: TRAFFIC JAM EVENTS, et al.</p> <p>4 Please note any errors and the corrections thereof on</p> <p>5 This errata sheet. The rules require a reason for any</p> <p>6 Change or correction. It may be general, such as "To</p> <p>7 Correct stenographic error," or "To clarify the</p> <p>8 Record," or "To conform with the facts."</p> <p>9 PAGE LINE CORRECTION REASON FOR CHANGE</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
162	<p>1 CERTIFICATE OF WITNESS</p> <p>2</p> <p>3 I hereby certify that I have read and</p> <p>4 examined the foregoing transcript, and the same is a</p> <p>5 true and accurate record of the testimony given by me.</p> <p>6 Any additions or corrections that I feel are</p> <p>7 necessary, I will attach on a separate sheet of paper</p> <p>8 to the original transcript.</p> <p>9 I hereby certify, under penalty of</p> <p>10 perjury, that I have affixed my signature hereto on the</p> <p>11 date so indicated.</p> <p>12</p> <p>13</p> <p>14 DATED:</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19 _____</p> <p>20 WILLIAM LILLEY</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>		

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