1 WILLARD K. TOM General Counsel 2 SARAH SCHROEDER (CA Bar No. 221528) MATTHEW GOLD (NY Bar No. 2073963) KERRY O'BRIEN (CA Bar No. 149264) 3 901 Market Street, Suite 570 4 San Francisco, CA 94103 Telephone: (415) 848-5100 Facsimile: (415) 848-5184 5 e-mail: sschroeder@ftc.gov; mgold@ftc.gov; 6 kobrien@ftc.gov 7 Attorneys for Plaintiff FEDERAL TRADE COMMISSION 8 9 UNITED STATES DISTRICT COURT 10 NORTHERN DISTRICT OF CALIFORNIA OAKLAND DIVISION 11 12 FEDERAL TRADE COMMISSION, Case No. CV 10-5418 PJH 13 Plaintiff, [PROPOSED] 14 STIPULATED ORDER FOR ٧. 15 PERMANENT INJUNCTION AND NATIONAL AWARDS SERVICE MONETARY JUDGMENT AS TO: ADVISORY, LLC, et al., 16 (1) (2) TULLY LOVISA. 17 INTERNATIONAL AWARD Defendants ADVISORS, INC., AND 18 (3) SPECTRUM CAGING SERVICE, INC., 19 Defendants, and 20 **(4)** LISA LOVISA 21 Relief Defendant 22 23 Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), filed its 24 Complaint, subsequently amended (as amended, "Complaint"), for a permanent 25 injunction and other equitable relief in this matter pursuant to Section 13(b) of the 26 Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The FTC and 27 Defendants Tully Lovisa, International Award Advisors, Inc., Spectrum Caging

Final Order re: Tully/Lisa Lovisa, IAA, & Spectrum Caging - CV 10-5418 PJH

Service, Inc., ("Defendants") and Lisa Lovisa, Relief Defendant, by and through

their counsel, stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment as to Tully Lovisa, International Award Advisors, Inc., and Spectrum Caging Service, Inc., Defendants, and Lisa Lovisa, Relief Defendant ("Order") to resolve all matters in dispute in this action between them.

THEREFORE, it is ORDERED as follows:

FINDINGS

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

DEFINITIONS

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

- A. "Corporate Defendants" means International Award Advisors, Inc. and Spectrum Caging Service, Inc., and their successors and assigns.
- B. "Defendants" means the Individual Defendant and all of the Corporate Defendants, individually, collectively, or in any combination.
 - C. "Individual Defendant" means Tully Lovisa.

- D. "Prize promotion" means (1) a sweepstakes or other game of chance; or (2) an oral or written express or implied representation that a person has won, has been selected to receive, or may be eligible to receive, or enter a contest to receive, a prize or purported prize, whether in the form of money, merchandise, or anything of value.
 - E. "Relief Defendant" means Lisa Lovisa.

ORDER

I.

BAN ON PRIZE PROMOTION

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

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

II.

PROHIBITION AGAINST MISREPRESENTATIONS

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

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

III.

MONETARY JUDGMENT AND PARTIAL SUSPENSION IT IS FURTHER ORDERED that:

- A. Judgment in the amount of Fifteen Million Four Hundred Eighty Nine Thousand and Forty Three Dollars (\$15,489,043) is entered against the Individual Defendant and Corporate Defendants, jointly and severally.
- B. Judgment in the amount of One Hundred Seventy Thousand Dollars (\$170,000) is entered against the Relief Defendant.
- C. Defendants and Relief Defendant shall relinquish all dominion, control, and title to funds currently held by the third parties pursuant to the December 15, 2010 Preliminary Injunction in this matter (approximately \$195,837) to the fullest extent permitted by law.
- D. Defendant Tully Lovisa and Relief Defendant Lisa Lovisa shall pay to the Commission Six Thousand Forty Two Dollars (\$6,042). Such payment shall be made within seven (7) days of entry of this Order by electronic fund transfer in accordance with instructions provided by a representative of the Commission.
- E. Prior to October 1, 2012, Defendant Tully Lovisa and Relief Defendant Lisa Lovisa shall sell the property at 4784 Dream Catcher Avenue, Las Vegas, NV, 89129 ("Dream Catcher Avenue Property"), upon terms and conditions acceptable to the FTC. Tully and Lisa Lovisa shall not encumber the Dream Catcher Avenue Property. Tully and Lisa Lovisa shall promptly comply with all reasonable requests from the FTC related to that sale, including but not limited to signing listing contracts with real estate agents, keeping the property in good repair, keeping the property in a condition suitable for showing to prospective purchasers, signing contracts for the sale of the property, and signing all documents necessary or appropriate for the transfer of the property to a new buyer. Upon the sale of the property, all net proceeds shall be paid to the FTC within ten (10) days of the sale. Any sheriff, title company, or other person involved in such a sale may rely on this

- Order as authority to deliver the net proceeds to the FTC. If the Dream Catcher Avenue Property has not sold prior to August 1, 2012, Defendant and Relief Defendant shall comply promptly with written instructions from the Assistant Director of the Western Region-San Francisco of the FTC concerning disposition of the property, which may include transferring the property to a receiver for disposition or allowing the FTC to place a judgment lien on the property.
- F. Prior to October 1, 2012, Defendant Tully Lovisa and Relief Defendant Lisa Lovisa shall sell the personal property listed in Attachment A of this Order, upon terms and conditions acceptable to the FTC. Upon the sale of the property, all net proceeds shall be paid to the FTC within ten (10) days of the sale.
- G. Upon the transfer of funds described in Subsections D through F, and the transfer of funds held by third parties pursuant to the Section titled "Turnover of Assets Held by Third Parties," the remainder of the judgment against Defendants shall be suspended subject to the Subsections below.
- H. Upon the transfer of funds described in Subsections D through F, and the transfer of funds held by third parties pursuant to the Section titled "Turnover of Assets Held by Third Parties," the judgment entered against the Relief Defendant is satisfied.
- I. The Commission's agreement to, and the Court's approval of, the suspension of part of the judgment, is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely:
 - 1. the Financial Statement of Individual Defendant Tully Lovisa signed on January 10, 2011, including the attachments;
 - 2. the Financial Statement of Corporate Defendant International Award Advisors, Inc., signed by Tully Lovisa, President, on January 10, 2011, including the attachments;

- the Financial Statement of Corporate Defendant Spectrum Caging Services, Inc., signed by Tully Lovisa, President, on January 10, 2011, including the attachments;
- Tax returns for Tully Lovisa, provided via letter from Defendants' counsel Steven DiLibero to Commission counsel Sarah Schroeder on January 10, 2011;
- 5. Additional documentation submitted by letter from Stipulating Defendants' counsel, Steven DiLibero, Esq., dated January 25, 2011, attaching bank registers of the Corporate Defendants;
- 6. the Financial Statement of Relief Defendant Lisa Lovisa signed on July 11, 2011, including the attachments; and
- 7. the Financial Statement of Lisa and Tully Lovisa signed on January 9, 2012.
- J. The suspension of the judgment shall be lifted as to any Defendant, if upon motion by the Commission, the Court finds:
 - that Defendant or Relief Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above; or
 - 2. that Defendant or Relief Defendant is in default on any obligation under this Section.
- K. If the suspension of the judgment is lifted, the judgment shall become immediately payable, and the amount due shall be calculated as follows: the judgment amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint), minus any payments previously made pursuant to this Section, plus interest computed from the date of entry of this Order pursuant to 28 U.S.C. § 1961.

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IV.

ADDITIONAL MONETARY PROVISIONS

- A. Defendants and Relief Defendant relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law. Defendants shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.
- B. Defendants and Relief Defendant agree that the facts as alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment pursuant to this Order, including but not limited to a nondischargeability complaint in any bankruptcy case. Defendants and Relief Defendant further stipulate and agree that the facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and that this Order shall have collateral estoppel effect for such purposes.
- C. Notwithstanding any other provision of this Order, if Defendants fail to meet the payment obligations set forth in Section III of this Order, Defendant Lovisa shall pay the costs and attorneys' fees incurred by the FTC and its agents in any attempts to collect amounts due.
- D. All funds paid, collected, and/or recovered pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, consumer redress, and any attendant expenses for the administration of such equitable relief. Defendants shall cooperate fully to assist the Commission in identifying consumers who may be entitled to redress pursuant to this Order. If the Commission determines, in its sole discretion, that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to

Page 7

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be reasonably related to Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendants and Relief Defendant shall have no right to challenge the Commission's choice of remedies. Defendants and Relief Defendant shall have no right to contest the manner of distribution chosen by the Commission. This judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture; and

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

V.

TURNOVER OF ASSETS HELD BY THIRD PARTIES

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

Party Holding Assets	Account Name	Approximate Amount in Account
Capital One Bank	International Award Advisors, Inc.	\$55,420

\$417

\$130,000

\$10,000

Total:

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Esq.

PacNet Services

Steven DiLibero, Esq.

Tony Tamburello,

\$195,837 Such turnover or payment shall be made by wire transfer in accordance with directions provided by the Commission.

International Award

Client Trust Fund for Tully

Client Trust Fund for Tully

Advisors, Inc.

and Lisa Lovisa

and Lisa Lovisa

VI.

LIFTING OF THE ASSET FREEZE

IT IS FURTHER ORDERED that the freeze of the assets pursuant to the Preliminary Injunction in this case shall be lifted only as to Tully Lovisa, International Award Advisors, Inc., and Spectrum Caging Service, Inc. This Order does not alter the freeze of assets belonging to Geovanni Sorino, Jorge Castro, Steven McClenahan, National Awards Service Advisory, LLC, Central Processing of Nevada, LLC., Prize Registry Bureau, Inc., Consolidated Data Bureau, Inc., Registered Data Analytics, Inc., and Lloyd Brannigan Exchange, Inc., pursuant to the December 15, 2010 Preliminary Injunction.

VII.

DISPOSITION OF PAST CUSTOMER INFORMATION

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

Α. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any

Final Order re: Tully/Lisa Lovisa, IAA, & Spectrum Caging - CV 10-5418 PJH

Page 9

Defendant obtained prior to entry of this Order in connection with the sale of any prize promotion; and

B. Failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

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

VIII.

COOPERATION WITH FTC

Advisors, Inc., Spectrum Caging Service, Inc., and Lisa Lovisa, shall fully cooperate with representatives of the Commission in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Defendants and Relief Defendant must provide truthful and complete information, evidence, and testimony. The Individual Defendant and Relief Defendant must appear and such Corporate Defendants "must cause their officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon five (5) days written notice, or other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena.

IX.

ORDER ACKNOWLEDGMENTS

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

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

Χ.

COMPLIANCE REPORTING

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

- A. One year after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury.
 - 1. Each Defendant must: (a) designate at least one telephone number and an email, physical, and postal address as points of

contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Individual Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission;

- 2. Additionally, the Individual Defendant must: (a) identify all telephone numbers and all email, Internet, physical, and postal addresses, including all residences; (b) identify all titles and roles in all business activities, including any business for which he performs services whether as an employee or otherwise and any entity in which he has any ownership interest; and (c) describe in detail his involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.
- B. For twenty (20) years following entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:
 - 1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that Individual Defendant has any ownership interest

- in or directly or indirectly controls that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.
- 2. Additionally, the Individual Defendant must report any change in:

 (a) name, including aliases or fictitious name, or residence
 address; or (b) title or role in any business activity, including any
 business for which he performs services whether as an employee
 or otherwise and any entity in which he has any ownership
 interest, and identify its name, physical address, and Internet
 address, if any.
- C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against such Defendant within fourteen (14) days of its filing.
- D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: ____ " and supplying the date, signatory's full name, title (if applicable), and signature.
- E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. National Awards Service Advisory, LLC, (Matter Number X1100010).

XI.

RECORDKEEPING

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

- A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss:
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name, addresses, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;
- C. Customer files showing the names, addresses, telephone numbers, dollar amounts paid, and the quantity and description of goods or services purchased;
- D. Complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- E. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
 - F. A copy of each advertisement or other marketing material.

XII.

COMPLIANCE MONITORING

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

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

XIII.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

IT IS SO ORDERED,

Dated: 4/19/12

HONORABI Judge Phyllis J. HAMILTON UNITED STATES DISTRICT JUDGE

1	SO STIPULATED AND AGREED:
2 3 4 5 6 7	FOR THE PLAINTIFF: FEDERAL TRADE COMMISSION SARAH SCHROEDER MATTHEW GOLD KERRY O'BRIEN Federal Trade Commission 901 Market Street, Ste. 570 San Francisco, CA 94103 (415) 848-5150 (voice) (415) 848-5184 (fax)
8	. 1. 1
10	Dated: 4/16/12
11 12 13 14	FOR DEFENDANTS TULLY LOVISA, INTERNATIONAL AWARD ADVISORS, INC. AND SPECTRUM CAGING SERVICE, INC. TULLY LOVISA, INDIVIDUALLY AND AS AN OFFICER OF INTERNATIONAL AWARD ADVISORS, INC., AND SPECTRUM CAGING
15 16 17	SERVICE, INC. Dated: $\frac{2/17/3012}{}$
18 19 20	FOR RELIEF DEFENDANT LISA LOVISA LISA LOVISA Dated: 2/17/12
21	Dated:
22 23 24 25 26 27	COUNSEL FOR TULLY AND LISA LOVISA, INTERNATIONAL AWARD ADVISORS, INC., AND SPECTRUM CAGING SERVICE, INC. STEVEN DILIBERO ESQ. COUNSEL FOR DEFENDANTS Dated: 22412
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	Final Order re: Tully/Lisa Lovisa, IAA, & Spectrum Caging - CV 10-5418 PJH Page 16

Attachment A

Tully and Lisa Lovisa's Liquidated Assets

Asset	Location	Approximate Value
2007 BMW Model 335	Tully Lovisa's personal residence	\$16,000
Master bedroom furniture set	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$950
Guest bedroom furniture set	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$750
Three couches	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$1,200
Two coffee tables	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$225
Three televisions	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$1,200
Three chairs	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$625
Lamps	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$200
Computer and computer table	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$600
Appliances	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$200
Silverware and plates	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$850
Kitchen set	4784 Dream Catcher Ave., Las Vegas, NV 89129	\$450
	Total:	\$23,250