

TESTIMONY REGARDING SB 976,

**AN ACT CONCERNING A STUDY OF THE FAIR
SALE OF TICKETS TO ENTERTAINMENT EVENTS**

The Connecticut Sports & Entertainment Industry Coalition consists of the following organizations:

CAPA - Shubert Theatre, Fans First Coalition, Feld Entertainment, Inc., Feld Motor Sports®(including Monster Jam®, Monster Energy® Supercross, Nuclear Cowboyz, AMSOIL Arenacross), IAVM International Association of Venue Managers, Live Nation Entertainment, Inc. (Artist Nation, Live Nation, Ticketmaster), Northwest Connecticut Association for the Arts, Inc. d/b/a Warner Theater, Oakdale Theatre, Premier Concerts / PKM Presents LLC, Red Light Management, Ringling Bros. and Barnum & Bailey®, The Broadway League, Inc., The Bushnell Center for the Performing Arts, Toad's Place - New Haven, and Xfinity Theatre. We submit this testimony regarding SB 976, An Act Concerning a Study of the Fair Sale of Tickets to Entertainment Events.

In 2011, legislation was brought before the General Law Committee addressing the very issues that are the subject of HB 6298, An Act Concerning The Fair Sale Of Tickets To Entertainment Events. After an intense lobbying campaign from both sides of the industry, the Chairs of the General Law Committee formally requested the Commissioner of the Department of Consumer Protection to study.

In the beginning of 2012, the Commissioner released that report and it is attached as Exhibit A to this testimony (the "Rubenstein Study"). The Rubenstein Study was widely hailed throughout the industry nationally and it positioned the State of Connecticut as a thought leader among states on this topic. During the course of the study, the Department learned of possible abuses and misconduct in the secondary marketplace in Connecticut. That led to an extensive investigation by the Department of the secondary marketplace. In July 2014, the Department, in conjunction with the Office of the Attorney General of Connecticut and the Federal Trade Commission, announced it had entered into a consent agreement with four parties (the "Rubenstein Consent Agreement"). That consent

agreement is attached as Exhibit B to this testimony.

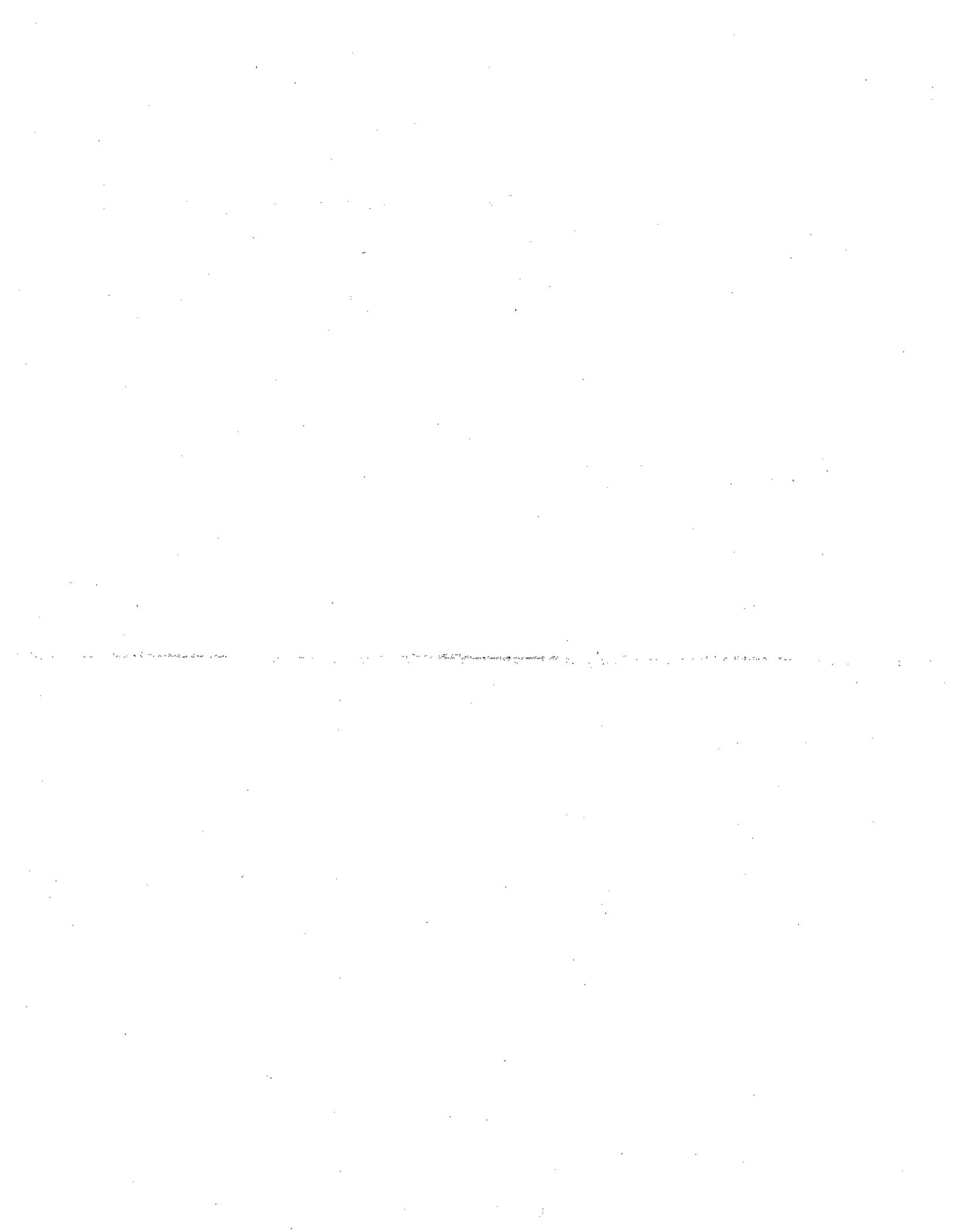
We do not yet know the full outcome of the actions taken by CT Consumer Protection as the effects of the new regulations continues to ripple through the industry. We have seen many brokers take the new regulations to heart and respect them. But we have also seen many brokers simply find new ways to circumvent the intent of the new regulations, while continuing to deceive consumers.

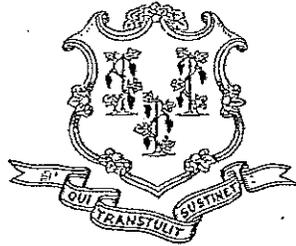
The Coalition would not object to further study of the secondary markets and brokers so long as the objective is to strengthen consumer protection. However, this study may be premature for two reasons. First, the Rubenstein Consent Agreement is only months old and it would be prudent to see how it will influence the behavior of brokers. Thus far, we have seen many brokers modify their behavior to comply with spirit of the Agreement while others continue to seek ways to circumvent it. Second, technology is rapidly evolving, enabling promoters and venues even more options to protect consumers.

If the Committee were to ask the Department to conduct another study, the range should go beyond the topics in the current version of the bill and include the following:

1. Should brokers be allowed to offer tickets for sale that they have not already purchased?
2. Should brokers be allowed to offer tickets for sale—not only that they have not already purchased—but tickets that are not even on sale to anyone?
3. Should there be a specified “broker blackout period” of 72 hours after tickets are officially put on sale to the general public during which brokers are forbidden to purchase tickets with the sole intent of reselling them at a much higher price?
4. Should sales tax apply when a broker resells a ticket to a customer?
5. A review of Web Robot Software (BOTs) that allows applications to run auto tasks over the internet.
6. A review of deceptive website marketing.
7. A review of seller disclosure that includes entities who do not disclose their resale practices.

In summary, it is our recommendation to set aside SB 976 until we better understand how the industry is adapting to the post-Rubenstein Consent Agreement world and how evolving technology will help the industry employ more safeguards.





STATE OF CONNECTICUT
DEPARTMENT OF CONSUMER PROTECTION
165 CAPITOL AVENUE, HARTFORD, CONNECTICUT 06106

WILLIAM M. RUBENSTEIN
COMMISSIONER

DANNEL P. MALLOY
GOVERNOR

February 22, 2012

The Hon. Paul Doyle, State Senator
Co-Chair, General Law Committee
Legislative Office Building
Hartford, CT 06106

The Hon. Kevin Witkos, State Senator
Ranking Member, General Law Committee
Legislative Office Building
Hartford, CT 06106

The Hon. Joe Taborsak, State Representative
Co-Chair, General Law Committee
Legislative Office Building
Hartford, CT 06106

The Hon. Rosa Rebimbas, State Representative
Ranking Member, General Law Committee
Legislative Office Building
Hartford, CT 06106

Dear Honorable Chairs and Ranking Members:

On April 25, 2011, you requested our assistance in researching the underlying issues having to do with H.B. 6298 (2011), An Act Concerning the Fair Sale of Tickets to Entertainment Events. Specifically, you requested that this Department provide an objective analysis of the manner in which event tickets are sold in Connecticut and the ways in which consumers are impacted by current ticket selling practices.

As part of its review, the Department consulted with representatives from a wide spectrum of entities that touch the ticket sale and distribution process, in both the primary and secondary ticket markets. We consulted with promoters, venues, sponsors, primary ticketing service providers, payment system companies, online search engine companies, ticket brokers, online secondary ticket exchanges and consumers. The Department evaluated the entire ticket purchase experience from the initial ticket search, most often conducted through online searching, through the ticket sale transaction by the ultimate event attendee. Also, in furtherance of its review, the Department thoroughly reviewed complaints received from consumers, venues, the Better Business Bureau and other agencies.

Below we set out an overview of the current practices in both the primary and secondary ticket markets that impact the ticket purchasing experience for consumers. Included is a summary and discussion of the types of complaints the Department reviewed. We discuss areas of concern in both the primary and secondary ticket markets. We conclude with a discussion of the adequacy of existing laws to address these areas of concern. Finally, we conclude that legislative changes are not currently necessary to address the areas of concern that we have identified.

Overview of Current Practices and Consumer Impact

At the outset, we want to be clear about our use of the term "consumer" in the context of this discussion. There are two main types of ticket purchasers: (1) those who purchase and resell; and (2) those who purchase and attend the event. We refer to the first type of purchaser as a "broker" or "reseller" and we refer to the latter type as a "consumer." Brokers and consumers often compete with each other for ticket purchases in both the primary and secondary ticket markets. Although brokers deserve fair opportunities, our primary concern is to assure that the ticket markets operate for the ultimate benefit of consumers.

Broadly speaking, most consumer ticket purchases generally begin with an online search for an event or ticket, and end with a sales transaction in either the primary or secondary ticket market. The search process and each market are discussed below.

The Ticket Search

A popular method that consumers use to search for tickets to an event is by conducting an internet search on a Web search engine such as Google or Bing. For a specific event at a Connecticut venue such as The Bushnell, for instance, a consumer may typically type a search string of words describing the desired event and venue. For example, a consumer may enter a search string such as "jersey boys bushnell hartford", or something similar. The first results a consumer would typically see are paid advertisements, or "Sponsored Links", either at the top of the search results page in a shaded section, or along the side of the web page. Below the shaded section of paid ads, the consumer finds the natural search results of the inquiry. For example:

Google

jersey boys bushnell hartford

Search

About 1,710,000 results

Advanced search

- Everything
- Images
- Videos
- News
- Shopping
- More

Show search tools

Bushnell Hartford - Just Buy Bushnell Theatre Tickets.

Bushnell Theatre Hartford Ct Ticket
bushnell.justbuytickets.com

Jersey Boys Hartford - Buy Jersey Boys Tickets

Choose Your Seats + Order Online
www.wideSeats.com/JerseyBoys
wideSeats.com is rated **★★★★☆** (176 reviews)

Jersey Boys Hartford | Ticketliquidator.com

Cheap Jersey Boys Hartford Tickets. Free shipping: code TL2011FREESHIP
www.ticketliquidator.com/JerseyBoys
ticketliquidator.com is rated **★★★★☆** (102 reviews)

The Bushnell

The amazing Gazillion Bubble Show comes to The Bushnell for two performances only on October 9 - a great date for families! Info. Tickets to Jersey Boys, which ...
www.bushnell.org/ - Cachad - Simbar

Event Search
Tickets Go On Sale for JERSEY BOYS
August 11
Buy Tickets

JERSEY BOYS returns to The Bushnell in
October 2011!
Wicked
Jersey Boys

Sponsored Links

Sponsored Links

Jersey Boys Hartford

Bushnell Theatre Montensen Hall.
Jersey Boys at Bushnell in Hartford
www.bushnell.theatrer.org

Jersey Boys Tickets

The Best Prices, No Hidden Fees!
Wanamaker Ticket Office, Since 1957
jerseyboys.wanamakerticket.com

Jersey Boys Hartford Tour

Visit The Official Site Now for
Show Information, Tickets and More.
www.jerseyboysinfo.com/tickets

Bushnell Theatre Tickets

No Mumbo Jumbo Just Great Seats For
Montensen Theater Hartford Event!
bushnelltheatre.jumbodtickets.com

Jersey Boys Hartford Bushnell

Jersey Boys - Hartford Tickets.
Where Fans Buy & Sell Tickets.
www.shubhub.com

This simple search has resulted in numerous websites from which the consumer can choose to purchase tickets. The venue's official website, www.bushnell.org, appears, as well as several reseller sites, including sites using the venue name such as www.bushnell.theatrer.org. The search results often make it difficult for consumers to discern which site provides tickets through the primary ticket market and which sites participate in the secondary ticket market.

Primary Ticket Market

Tickets to events are initially offered by either the event promoter or the venue at which the event will take place. This initial ticket sale takes place in what is known as the primary ticket market. While there are exceptions and anomalies, ticket sales in the primary ticket market are typically sold at face value through, or by arrangement with, the venue's box office. Consumers can access the primary market by visiting the physical box office at venues such as the XL Center, The Bushnell, Mohegan Sun Arena, and Foxwoods Resort Casino, or online through the venue's official online site, such as www.xlcenter.com, www.bushnell.org, www.mohegansun.com, or www.foxwoods.com. Tickets in the primary ticket market are also often sold through a private entity contracted to print, offer and sell tickets to the public at face value. Ticketmaster, for example, is a well-known private entity that is often contracted to provide such ticketing services on behalf of a venue, in the primary ticket market.

Sellers in the primary ticket market often announce the availability of tickets in advance of the event date. The date on which tickets will be available to all members of the public is known as the "public on-sale date."

The number of tickets actually available for sale on the public on-sale date for a particular event is the result of a number of factors. While the seating capacity of the venue provides the starting point, venues may "hold back" tickets due to stage configuration or other considerations that require certain seats be sold before others. Tickets may also be subject to hold-back for promotional or personal use by the promoters, the venue, event sponsors or the artists. Hold-backs may be released after the public on-sale date, sometimes making tickets available after consumers have been told that the event sold out.

In addition to hold-backs, the availability of tickets on the public on-sale date are affected by "pre-sales." Pre-sales occur when tickets are made available, prior to the public on-sale date, to a variety of special privilege purchasers such as official fan clubs, sponsor's customers and other membership or select groups. Hold-backs and pre-sales both reduce the number of tickets available on the public on-sale date and, therefore, have a direct impact on the general public's ability to access tickets in the primary ticket market.

We have not done a full study to determine the precise percentages of tickets available on the public on-sale date. However, our review of a sampling of sell-out or near sell-out events at Connecticut venues indicates that the vast majority of tickets are typically available to the public on the public on-sale date. Nonetheless, a significant number of tickets are subject to hold-backs and pre-sales.

The extent to which tickets are available on the public on-sale date can be important information to consumers. Armed with such information, a consumer could make a choice of whether to wait for the public on-sale date or attempt to participate in the pre-sale by joining a group to whom pre-sale is offered. Similarly, a consumer may forego purchase on the public on-sale date in the hope that a hold-back ticket will be released for sale at a later date.

Professional ticket brokers and resellers who purchase tickets in the primary market with the intent of reselling in the secondary market also have a direct impact on the general public's ability to access tickets. Professional resellers may utilize automated systems ("bots") or a legion of employees to reserve and purchase large quantities of tickets at the onset of the initial public on-sale. Similarly, professional resellers may join fan clubs and other pre-sale eligible groups and purchase tickets before they are available to consumers on the public on-sale date. These efforts have a direct impact on the general public's ability to access tickets in the primary ticket market. Brokers'

participation in purchasing tickets in the primary ticket market compete with consumers seeking to purchase the same tickets and, depending on the degree of such activity, may crowd out consumers from being able to make those purchases. These disappointed consumers may then turn to the secondary market to purchase tickets from the same brokers.

The primary ticket market sellers have recently been experimenting with ticket sales techniques that seek to discourage brokers from competing with consumers for tickets. Among the rationales posited by primary ticket sellers for these techniques are: (1) to give preference for tickets in the primary market at face-value to fans, i.e. purchasers who want to actually attend the event; and (2) to keep ticket prices to consumers low so that consumers will be able to afford to attend other shows, thereby expanding the number of events available at the venue.

One of these experimental techniques is known as "paperless tickets." While there are variations in this technique, in a typical paperless ticket transaction, no ticket is issued. Rather, the purchaser's name and credit card information is placed on a list at the venue. At the time of the event, the purchaser must appear at the venue and show the credit card used for the transaction in order to be admitted to the event. The nature of this transaction makes it difficult to transfer the "ticket" to someone other than the initial purchaser. Although we have heard anecdotally of the use of similar techniques in other states, we are aware of only one such paperless ticket event in Connecticut in the past several years.

Secondary Ticket Market

Tickets to events and shows are also offered to the public by way of the secondary ticket market through ticket resellers. While resellers in the secondary market were once referred to as "scalpers," that pejorative term is anachronistic and inappropriate. We refer to resellers in this market as brokers or ticket resellers.

Tickets become available on the secondary ticket market for two main reasons – either the original ticket purchasers finds they cannot attend the show or has purchased more tickets than they can use, or profit seeking by professional ticket brokers and resellers who purchased with the intent to resell. Our understanding from the major secondary ticket exchanges is that the vast majority of tickets for events such as concerts and shows are sold by professional brokers and ticket resellers. A majority of the tickets offered on the secondary ticket market are priced above face value.

The secondary ticket market serves an important role in distributing tickets to consumers. The secondary ticket market can create several benefits to both consumers and to venues and promoters. First, the secondary ticket market can provide an efficient

mechanism to provide consumers with access to a large number of competing sellers. Second, some consumers do not desire to participate in the primary market for a variety of reasons. These consumers may find it inconvenient to be available to make the purchase when tickets go on sale in the primary market. Or, they make a decision to attend an event after most or all tickets have been sold in the primary market. Or, they desire better tickets than they were able to obtain on the primary market. For these consumers, the secondary market provides a desired service. A third benefit is the secondary market's ability to reduce a venue's or promoter's risk that their tickets will actually sell. These venues or promoters may be happy to have brokers snap up large numbers of tickets and assure that the event is a financial success. The risk of reselling the tickets to consumers is transferred to the brokers who have taken the risk that such resales will occur. The off-loading of this risk to the secondary market can have the effect of encouraging venues and promoters to invest in additional events. The secondary ticket market is capable of creating other efficiencies as well.

Today, the secondary ticket market exists primarily online. There are several distinct participants in the secondary ticket market. At one end of the transaction there is the consumer, the person hoping to get a ticket to attend an event. At the other end of the transaction is the ticket broker who holds a ticket or will attempt to procure a ticket for the consumer. In between, are entities known as "ticket marketplaces" or "ticket exchanges." Ticket exchanges create a mechanism to connect the consumer to the broker. Among the largest exchanges are StubHub (an E-bay affiliate), TicketsNow (a Ticketmaster/Live Nation affiliate) and TicketNetwork. Other secondary market participants include entities that attract consumers on the internet and deliver the consumer to one of the exchanges for a fee. These entities are often called "partners" or "affiliates" by the exchanges that pay them to deliver consumers. Each of the exchanges uses different models and arrangements with their partners to increase consumer traffic through the exchange. As described below, certain of these partner arrangements are of great concern to the Department.

Like the primary market, the secondary market is often accessed by way of an online search, as shown above. Consumers can also access the ticket exchanges directly by entering the exchange's domain name directly into the address bar of the internet browser. Well-known domain names for direct access to exchanges include www.stubhub.com, www.ticketsnow.com and www.ticketnetwork.com. Examples of the numerous independent websites that turned up in online searches for Connecticut event tickets at the time of our review, and that primarily drive traffic through a ticket exchange as partners or affiliates, are www.mohegan.sun.arena.com, www.xl.center-tickets.com, www.bushnell.theatre.org, www.websterbank.arena-tickets.org, www.xl.centerhartford.com, just to name a few. Such secondary ticket market websites acting as partners for an exchange are not connected to any venue or artist. Due to the use of actual venue names in the domain names, however, consumers may not realize

they are purchasing a ticket from a broker and not purchasing from the official box office website. This confusion directly impacts the public's ticket-buying experience.

In a typical secondary market transaction, a consumer will connect with an exchange, either directly or through a partner. The exchange will provide a listing provided by brokers offering to sell the consumer tickets for particular events. Prices for similar tickets being offered for the same event often vary and are often well above face value. The ticket prices on the exchanges are set by the broker offering the ticket. In addition to providing the listing, the exchange typically offers additional services, which vary from exchange to exchange, and sometimes different services on the same exchange that vary depending on the broker or partner that is also involved in the transaction. Among these additional services are fulfillment services, payment services and varying guarantees of ticket availability and authenticity.

Exchanges charge fees to consumers over and above the ticket price offered. Exchanges also charge fees to brokers for use of the exchange. Exchanges pay partners for driving traffic to the exchange. Exchanges pay partners in a variety of ways. Some exchanges pay flat fees, others pay a percentage of the sale, still others allow partners to charge their own fees directly to the consumer.

After a consumer makes payment through the exchange, the broker is obligated to provide the ticket to the consumer. In some transactions, the ticket is transferred to the consumer immediately. In other transactions the tickets may not be delivered for several weeks. Occasionally tickets are not delivered at all.

Consumer Complaints

Over the last year, the Department received 122 complaints about ticket sales. The Department receives complaints directly and from the Connecticut Better Business Bureau, which forwards to us complaints that it receives. Of the 122 complaints, two concerned the primary ticket market and 120 concerned the secondary ticket market.

In the primary ticket market, one complaint was about an incorrect advertising of the public on-sale date and the other involved the failure to deliver elements of a premium package that was purchased along with the tickets.

The 120 complaints in the secondary ticket market largely centered on confusion by consumers about the nature of the transaction, the insufficient disclosure of terms and conditions and sale of tickets through exchanges where the broker did not have the tickets at the time of sale. We cannot break out the complaints into the categories that you delineated in your inquiry because most consumers complained about a multitude of problems and frustrations in the same transaction. We will however, summarize the prevalent problems that cut across the majority of the complaints about the secondary

ticket market. Regardless of how the complaints were articulated, it was clear that those consumers who complained to us did not understand the nature of the transaction.

Many consumers complained that they were unaware that they were paying above face value for the tickets that they purchased or the nature of add-on fees. In many instances consumers were very specific about why they were unaware that they were paying above face values. They told us that they believed that they were purchasing directly from the venue in the primary ticket market because of the look and feel of the websites. Domain addresses often included the name of the venue, event or artist and the sites displayed prominent banners naming the venue on their initial web pages as well as a depiction of the arena with seating. Examples of the domain names that these consumers accessed were www.comcast.theatrehartford.com, www.comcast.theatreboxoffices.com, www.mohegansun.arenaboxoffice.com, www.mohegansun.arena-ct.com, www.xl.centerhartford.com and www.hartford-xl.centerboxoffice.org. None of these websites are affiliated with a venue, but rather, drive ticket sales through a secondary market ticket exchange.

Other consumers complained that they often did not know the total price of the tickets and associated fees prior to purchase. Some consumers said that fees were not disclosed until after the vendor secured payment. Other consumers complained that the transaction costs were not reasonable based upon the service rendered. Consumers complained that disclosure about fees, ticket face values and refunds were buried in several pages of small print terms and conditions that were not conspicuous. When the consumers sought recourse through an exchange, the exchange either disavowed any responsibility for the sale referring the consumer instead to the broker who used the exchange or the exchange informed the consumer that they were bound by the inconspicuous terms and conditions and no refund was issued to the consumer.

Consumers also complained because tickets being offered through secondary market exchanges were not within the inventory of the ticket reseller. Rather, these tickets were "speculative." After the broker sold the consumer a ticket, the reseller would only then seek to obtain the ticket. The consumers were unaware that they broker did not have the ticket to sell and indicated that they would not have purchased the ticket had they been aware.

A few of the 120 secondary ticket market complaints do not involve ticket exchanges at all. These complaints concerned fraudsters who created fake websites or posted solicitations on sites like Craigslist and who never intended to provide tickets at all.

The Department's Primary Areas of Concern

In our review of the ticket markets, we have developed areas of concern in both the primary ticket market and the secondary ticket market.

In the primary ticket market, we have concerns about adequate disclosure of the availability of tickets on the public on-sale date. The significance of such information to consumers, however, will vary depending on the degree of public on-sale date availability. We also have some concerns over whether techniques such as paperless tickets strike a proper balance between the legitimate interests of artists, promoters and venues on the one hand, and consumers on the other. However, we have received an extremely small number of consumer complaints about the primary ticket market.

In the secondary ticket market, our three primary areas of concern are: (1) deception that causes consumers to believe that they are purchasing in the primary market when they are actually purchasing in the secondary market, including use of deceptive domain names and deceptive site layouts; (2) inadequate disclosures of the terms and conditions of the transactions; and (3) speculative ticket sales in the secondary market without adequate disclosure to the consumer about the additional risks of such transactions or the value of the offer. Of these concerns, the first and third deserve more detailed discussion.

Deception creating confusion with the venue box office is the area of most concern, as reflected in the complaints discussed earlier. Independent websites with internet domain names that are designed to confuse consumers and site layouts that resemble official venue sites are practices that stood out throughout the course of our review.

As shown by the number and consistency in the complaints reviewed, consumers are often deceived by independent websites with domain names that include the name of the venue, or an intentionally misspelled version of the same. Consumers believe they are purchasing directly from the official box office website of the venue and that the tickets are being offered at the face value price; they are not aware that they are purchasing from a ticket reseller in the secondary ticket market at an inflated price. These websites, run by ticket exchange partners, use layouts that further the deception by prominently displaying the name of the venue at the top of the site, with a seating chart and narrative description of the venue often copied directly from the official website. At the time of our review, we found that disclosures regarding the website's lack of affiliation with the box office and its reseller status are frequently non-existent, unclear, or inconspicuously displayed.

We want to be clear that these practices are not uniformly utilized by ticket exchanges. But some ticket exchanges do allow independent sites with deceptive domain

names and website layouts to be partners or affiliates. There is strong incentive to do this, as such deceptive websites naturally drive more traffic to affiliated exchanges, in turn generating more sales. This deception comes at the direct expense of not only the duped consumer, but also the venue that is confronted by that consumer when they realize they paid significantly above face value for tickets they thought they had purchased from the venue's own website. The venue is left with an unhappy customer, through no fault of its own.

Ticket exchanges should not permit partners and affiliates to use deceptive domain names – domains that include the name of a venue or a misspelled version of the same, for example, or deceptively designed website pages – and all ticket reseller websites need to clearly and conspicuously disclose that they are not affiliated with any venue or box office, that they are ticket resellers, and that the tickets offered are priced above-face value when that is the case.

Speculative ticket sales in the secondary market are also an area of concern. Speculative tickets are those tickets that the broker offers for sale, and sells, when the broker neither has the ticket in-hand, nor has the right to that ticket at the time of the sale. Many ticket exchange listings do not clearly and conspicuously disclose when the tickets offered for sale are speculative tickets. Because of this lack of disclosure, the consumer is often not aware that the broker is only offering to seek to obtain the ticket on the consumer's behalf. If the broker is not successful, the consumer may not get a ticket at all. While exchanges often refund a consumer when that happens, that is cold comfort for the consumer. When a "hot" event is involved, the consumer is usually faced with the choice of not going to the event at all or reentering the market at time when there is a decreased supply of tickets and presumably an increased ticket price.

Speculative tickets also can present a problem when there are still plenty of tickets available at the box office. Our review uncovered a highly nefarious speculative ticket practice that combines speculative ticket sales with the practice of deceiving the consumer into thinking that they are dealing with the box office. The scheme works like this: the consumer is deceived into thinking that they are at the official box office website. Yet, in fact, they have arrived at a secondary market website driving traffic through a ticket exchange. The consumer purchases tickets at inflated prices, thinking the price is face value. Incredibly, large numbers of tickets are still available through the box office at the much lower face value. The broker who just sold the consumer a ticket at an inflated price, contacts the official box office of the event, and purchases the ticket at face value, sometimes using a gift card and providing the consumer's name. In these situations, the consumer is neither aware that they are not purchasing from the box office nor that they have paid a highly inflated price to a broker that did not own the tickets and took no risk in procuring them for the consumer. Our review documented a single broker who, operating through a ticket exchange, utilized this ruse over 300 times in an 18 month period.

Recommendation

Despite areas of concern in both the primary ticket market and the secondary ticket market, we believe that additional legislation is not necessary at this time. We believe that the Connecticut Unfair Trade Practices Act ("CUTPA") is robust enough to provide remedy to prevent the types of deceptive practices that we describe above. Indeed, as has been widely reported in the press, we have an active investigation ongoing regarding these practices. While it would be imprudent to disclose the details of our investigation at this point, our ultimate resolution of any enforcement action that we may bring will be made public.

Although we do not see a need for additional state legislation to appropriately protect consumers against deceptive practices, we do think that changes in federal legislation could aid our enforcement. Currently there is a broad immunity from liability for certain internet providers under the federal Computer Decency Act ("CDA"). Ticket exchanges have claimed that the immunity of the CDA applies to their activities, and thus, they believe that they are immune from application of laws like CUTPA for the exchanges' participation in the deceptive acts of their partners and brokers. We believe the CDA to be inapplicable based upon the close inter-relationship between the exchanges, their partners and their brokers. In any event, changes to Connecticut law will not resolve that issue.

Finally, with regard to paperless tickets and other similar techniques, we do not think the practice warrants legislative intervention at this time. We are aware of only a single such event which has occurred in Connecticut. There is resistance to such practices by venues that find implementation difficult and by some consumers who find it inconvenient. There is no evidence that the practice has gained market acceptance in Connecticut. Moreover, industry news sources report that some primary ticket sellers are experimenting with various similar techniques designed to achieve the industry's legitimate objectives while alleviating the burden on consumers who, after purchasing the ticket find out that they cannot attend the event. There is no uniform or accepted practice that has taken hold in the industry. Thus, although there will likely be occasional paperless ticket events in Connecticut as the experiments continue, we do not see a swift influx that would necessitate a legislative solution. Rather, our recommendation is to allow the marketplace to work in the first instance before resorting to legislation. If paperless tickets are not accepted in the market, they will fall of their own weight. If they adapt to a consumer friendly form, then they should not be prevented. If they take hold in consumer unfriendly ways, however, you may then wish to consider appropriate legislation that removes consumer unfriendly restraints while permitting practices that are

Page 12,
February 22, 2012

designed to keep prices as low as possible to consumers who actually want to attend the event. If that time comes, we would look forward to providing our thoughts on how that might be achieved.

We hope these thoughts have been helpful.

Sincerely,



William M. Rubenstein
Commissioner of Consumer Protection

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FEDERAL TRADE COMMISSION, and
STATE OF CONNECTICUT,

Plaintiffs,

v.

TICKETNETWORK, INC.,
a corporation; and

TICKET SOFTWARE, LLC,
a limited liability company

Defendants.

Case No. 3:14-cv-1046

Date July 24, 2014

**[STIPULATED] FINAL JUDGMENT AND ORDER FOR PERMANENT
INJUNCTION AND OTHER RELIEF AS TO DEFENDANTS TICKETNETWORK, INC
AND TICKET SOFTWARE LLC**

Plaintiffs, the Federal Trade Commission ("Commission" or "FTC") and the State of Connecticut ("State") (collectively "Plaintiffs"), filed a Complaint for Permanent Injunction and Other Relief against TicketNetwork, Inc., a corporation, and Ticket Software LLC, a limited liability company. The FTC brought its claims pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b) and the State brought its claims pursuant to the Connecticut Unfair Trade Practices Act ("CUTPA"), Chapter 735a of the Connecticut General Statutes, and more particularly for relief in accordance with C.G.S. §§ 42-110m and 42-110o for alleged violations of C.G.S. § 42-110b(a).

Plaintiffs and Defendants TicketNetwork, Inc. and Ticket Software, LLC stipulate to the entry of this [Stipulated] Final Judgment and Order for Permanent Injunction and Other Relief ("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 this matter.
2. The Complaint alleges that Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and CUTPA, C.G.S. § 42-110b(a), in connection with the advertising, marketing, distribution and or sale of Resale Tickets to consumers.
3. Defendants admit, for purposes of this action only, the facts in the Complaint necessary to establish jurisdiction. Because this is a settlement, Defendants neither admit nor deny any of the other allegations in the Complaint.
4. Defendants waive any claim that they may have 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 not to seek their own costs and attorneys' fees thereunder.
5. The parties waive all rights to appeal or otherwise challenge or contest the validity of this Order.

ORDER

DEFINITIONS

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

1. "Clearly and prominently" means:
 - a. In print communications, the disclosure shall be presented in a manner that stands out from the accompanying text, so that it is sufficiently prominent, due to its type

size, contrast, location, or other characteristics, for an ordinary consumer to notice, read, and comprehend it;

- b. In communications made through an electronic medium (such as television, video, radio, and interactive media such as the Internet, online services, and software), the disclosure shall be presented simultaneously in both the audio and visual portions of the communication. In any communication presented solely through visual or audio means, the disclosure shall be made through the same means through which the communication is presented. In any communication disseminated by means of an interactive electronic medium such as software, the Internet, or online services, the disclosure must be unavoidable. Any audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. Any visual disclosure shall be presented in a manner that stands out in the context in which it is presented, so that it is sufficiently prominent, due to its size and shade, contrast to the background against which it appears, the length of time it appears on the screen, and its location, for an ordinary consumer to notice, read and comprehend it; and
- c. Regardless of the medium used to disseminate it, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any communication or within any document linked or referenced therein.

2. **"Defendants"** means TicketNetwork, Inc. and Ticket Software, LLC, also doing business as TicketNetwork Direct, and their successors and assigns.

3. **"Face Value"** means the price at which the Ticket is offered for sale by the primary seller in the normal course, including all attendant fees and charges imposed by or required to be collected by the venue, primary seller, or original ticket issuer, or other entity authorized by the venue, primary seller, or original ticket issuer, such as, pro-rata license fees, Ticket package fees, bundled add-on fees, services fees, taxes (state, municipal, venue renovation, entertainment, or other levies), or any other charges.
4. **"Partner Operator"** means any operator of a Resale Ticket Site for which Defendants provide Ticket inventory or Ticket inventory data feeds, process Ticket sales through Defendants' platform, and routinely provide a material portion of the customer service for Ticket orders.
5. **"Primary Ticket Site"** means an Internet webpage or Internet website owned or maintained by a venue, primary seller, original ticket issuer, or other entity authorized by the venue, primary seller, or original ticket issuer to sell Tickets at their current Face Value.
6. **"Relevant Complaint"** means a written or electronic complaint, independently created by an individual or representative of an entity, which reasonably can be interpreted as claiming that a Partner Operator has engaged in conduct violating any of the requirements in Parts I through III of this Order, whether or not the complaint accurately identifies the Partner Operator as the responsible party.
7. **"Resale Ticket(s)"** means any Ticket(s) sold by an individual or entity other than the venue, primary seller, original ticket issuer, or other entity authorized by the venue, primary seller, or original Ticket issuer to sell a Ticket at its current Face Value.

8. "Resale Ticket Site" means an Internet webpage or Internet website whose primary purpose is the offering of Resale Tickets for sale to the public.
9. "Similar Advertising" means search engine advertisements, Resale Ticket Sites, or other advertisements that use the same template or otherwise employ substantially similar physical layouts or placements of images or logos, with the exception of content unique to the specific venues, events, or performers being advertised.
10. "Ticket(s)" means any paper ticket(s) or electronically transmitted ticket(s) that entitles the bearer to admission to a live entertainment event, including, but not limited to, concerts, sporting events or games, theater performances, simulcast events, or exhibits.

I.

PROHIBITED REPRESENTATIONS

IT IS FURTHER ORDERED that Defendants, Defendants' 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, whether acting directly or indirectly, in connection with the advertising, marketing, or promotion of Resale Tickets offered for sale through any Resale Ticket Site owned or operated, in whole or in part, by any Defendant, are permanently restrained and enjoined from:

- A. Using the word "official," or any phrase containing the word "official," such as official website, official tickets, or official source, including any alternate spellings thereof, in search engine advertisements, actual or display URL's, websites, webpages, or any other forms of advertising for Resale Tickets or Resale Ticket Sites, except to the extent that the word "official" is part of the

name of a venue, stadium, arena, theater, performing arts center, center, event, tour, performer, or sports team, or where a venue, stadium, arena, theater, performing arts center, center, event, tour, performer, sports team, primary seller, or original ticket issuer has authorized the Resale Ticket Site to sell Resale Tickets on its behalf; or

- B. Using the name of any venue, stadium, arena, theater, performing arts center, center, event, tour, performer, or sports team, including any partial or alternate spellings thereof, in any actual or display URL in any search engine advertisement for Resale Tickets or Resale Ticket Sites, except where: (1) such name is presented only within the subdirectory or subfile portion of such actual or display URL (i.e., after the top level domain and first “/”); or (2) the advertisement containing such actual or display URL clearly indicates through descriptors, brand names, business names (e.g., “TicketNetwork” or “TicketLiquidator”), the content of the offer, or other means, that the site is a ticket reseller not affiliated with such venue or other entity; and such advertising does not otherwise violate Part II of this Order.

II.

PROHIBITION AGAINST MISREPRESENTING RESALE TICKET SITES AS PRIMARY TICKET SITES

IT IS FURTHER ORDERED that Defendants, Defendants’ 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, whether acting directly or indirectly, in connection with the advertising, marketing, or promotion of Resale Tickets offered for sale through any

Resale Ticket Site owned or operated, in whole or in part, by any Defendant, are permanently restrained and enjoined from misrepresenting, expressly or by implication, that a Resale Ticket Site is a Primary Ticket Site or that a Resale Ticket Site is offering tickets at Face Value, unless authorized by the venue, primary seller, or original ticket issuer, whether through:

- A. The use of names (including alternate spellings thereof), images, photos, depictions, or illustrations of venues, stadiums, arenas, theaters, performing arts centers, centers, events, tours, performers, or sports teams in search engine advertisements, actual or display URL's, websites, webpages, or any other forms of advertising;
- B. The use of terms such as box office, arena, stadium, theater, performing arts center, or center in any such advertising; or
- C. Any other means.

Nothing in this Part shall prohibit the truthful and non-misleading use of any such names, terms, images, photos, depictions, or illustrations.

III.

PROHIBITION AGAINST FAILING TO DISCLOSE MATERIAL INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' 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, whether acting directly or indirectly, in connection with the advertising, marketing, or promotion of Resale Tickets offered for sale through any Resale Ticket Site owned or operated, in whole or in part, by any Defendant, are permanently restrained and enjoined from failing to disclose, clearly and prominently on (1) the ticket listing

page (i.e., where specific tickets are offered for sale) and (2) the payment authorization page of such site, that: (a) the site is a resale marketplace and not a venue or box office; (b) the Ticket price may exceed Face Value; and (c) the site is not owned by the venue, sports team, performer, or promoter (as applicable). *Provided that*, where a search engine advertisement contains an actual or display URL that sends a consumer directly to a website that offers tickets to a single venue, performer, team or event, then such information also shall be disclosed, clearly and prominently, on the initial page to which users are directed via such search link.

IV.

MONITORING OF PARTNER OPERATORS

IT IS FURTHER ORDERED that Defendants, Defendants' 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, in connection with any Partner Operator's advertising, marketing, promotion, or sale of Resale Tickets through any Resale Ticket Site, shall, within sixty (60) days of service of this Order, establish, implement, and thereafter maintain policies, practices, and procedures that are reasonably designed to ensure that a Partner Operator does not misrepresent, directly or by implication, whether through an actual or display URL, website, webpage, search engine advertising, or other advertising or promotion, that a Resale Ticket Site is a Primary Ticket Site. Such policies, practices, and procedures shall, at a minimum, consist of:

- A. Requiring a Partner Operator to enter into a written agreement which clearly and prominently states: the requirements of Parts I through III of this Order and the Partner Operator's obligation to comply therewith; the Partner Operator's obligation to take immediate action to correct any violation of the requirements of

Parts I through III of this Order; and the disciplinary action that Defendants will take against the Partner Operator for failure to comply;

- B. Defendants' implementation and maintenance of a system for receiving and reviewing Relevant Complaints from customers, brokers, venues, Partner Operators, promoters, government entities, and Better Business Bureaus or similar non-profit entities. As a part of this system, Defendants shall require each Partner Operator and ticket broker doing business with them to promptly forward to Defendants a copy of each Relevant Complaint they receive from any source.
- C. Upon receipt of a Relevant Complaint, promptly providing such complaint to the Partner Operator responsible for the advertising at issue and notifying the Partner of its obligation to: correct the violations in the Resale Ticket Site(s) or related search engine advertisements that are the subject of the complaint; correct any such violations in Similar Advertising; and provide to Defendants a written or electronic certification identifying all such Similar Advertising and affirming that all such advertising has been corrected.
- D. Promptly taking appropriate disciplinary action upon determining that a Partner Operator has engaged in conduct that violates any of the requirements of Parts I through III of this Order. Appropriate disciplinary action shall incorporate escalating sanctions including:
1. For a first violation: Defendants shall promptly disable access to Ticket inventory for the Resale Ticket Site(s) that were the subject of such complaint until the Partner Operator completes all of the actions required by Part IV.C herein;

2. For a second violation: Where a Partner Operator, within one year of a sanction imposed for its first violation, engages in a subsequent violation of any requirement set forth in Parts I through III of this Order, Defendants shall promptly disable access to Ticket inventory for the Resale Ticket Site(s) that were the subject of the complaint and require the Operating Partner, within seven business days, to complete all of the actions required by Part IV.C. Defendants, upon receipt of the Partner Operator's certification of compliance, shall disable all Ticket Resale Sites that were the subject of the second complaint, plus Similar Advertising sites, for a period of two weeks thereafter. In the event the Partner Operator fails to take such action within seven business days, Defendants shall disable access to Ticket inventory for all of such Partner Operator's Resale Ticket Sites until it completes all of the actions required by Part IV.C herein, and shall continue to disable access for a period of two weeks thereafter.
3. For a third violation: Defendants shall terminate the relationship with a Partner Operator in the case of a third such offense within one year of a sanction imposed for the second violation.

In order to allow for a reasonable time period to address complaints about similar conduct predating the Partner Operator's sanction for a first or second violation, complaints received about such conduct shall not constitute a "second" or "third" violation for purposes of this Part.

V.

STATE MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Defendant shall pay the State of Connecticut Seven Hundred Fifty Thousand Dollars (\$750,000.00) no later than thirty (30) days after the date of entry of this Judgment. Said settlement payment shall be used by the State for complaint resolution programs, consumer education, and consumer protection enforcement and litigation, and shall be placed in, or applied to, accounts dedicated to those purposes. Defendant has no right to challenge any actions the State or its representatives may take pursuant to this Subsection.

B. Defendants relinquish dominion and all legal and equitable right, title, and interest in the funds that constitute such payment and may not seek the return of any portion of such payment.

VI.

ORDER ACKNOWLEDGMENTS

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

Order:

- A. Each Defendant, within 7 days of entry of this Order, must submit to the Commission and the State an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 3 years after entry of this Order, Defendants must deliver a copy of this Order to: (1) all of their principals, officers, directors, and LLC managers and members; (2) all of their personnel involved in the advertising, marketing, or promotion of

Defendants' Resale Ticket Sites or any Partner Operator's Resale Ticket Sites; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For 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 30 days, a signed and dated acknowledgment of receipt of this Order.

VII.

COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission and the State as follows:

- A. Within thirteen months after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury, in which it must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and the State 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 goods and services offered, the means of advertising, marketing, and sales, and the involvement of the other Defendant (if applicable); (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 and the State.

B. For 10 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, to the Commission and the State within 14 days of any change in the following: (a) any designated point of contact; or (b) the structure of any Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly 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.

C. Each Defendant must submit to the Commission and the State notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission or the State 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: TicketNetwork, Inc., et al Consent Order.

- F. Unless otherwise directed by a State representative in writing, all submissions to the State pursuant to this Order must be emailed to DCP.Commissioner@ct.gov and to attorney.general@ct.gov, or sent by overnight courier (not the U.S. Postal Service) to: Commissioner of Consumer Protection, 165 Capitol Avenue, Hartford, CT 06106 with a copy to the Attorney General, 55 Elm Street, Hartford, CT, 06106, sent by the same manner. The subject line must begin: TicketNetwork, Inc., et al, Consent Order.

VIII.

RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create the following records for 10 years after entry of the Order, and retain each such record for 5 years:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records for each person covered by Part VI.B (1) and (2) of this Order showing that person's: name; addresses; telephone numbers; job title or position; and dates of service (including, if applicable, the date of termination);
- C. Records of all written or electronic complaints covered by Part IV.B above and refund requests received by Defendants concerning acts or practices subject to this Order, and any response;

- D. Records demonstrating full compliance with each provision of this Order, including all submissions to the Commission and the State; and
- E. Documents reflecting each materially different search engine advertisement, website, or other form of advertising that (1) contains representations covered by this order and (2) that also contains, or links the consumer to an advertisement that contains, an actual offer of Resale Tickets. Where the only material difference among such advertisements is the specific venue, sports team, or performer event being referenced, it will be sufficient to retain documents reflecting a representative set of advertisements, plus information sufficient to identify all the other events referenced in similar advertisements.

IX.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, solely for the purpose of monitoring Defendants' compliance with this Order:

- A. Within 14 days of receipt of a written request from a representative of the Commission or the State, each Defendant must: submit additional compliance reports as set forth in Part VII.A, which must be sworn under penalty of perjury; appear for depositions; and produce documents pertaining to compliance with Parts I-IV of this Order for inspection and copying. The Commission or the State are 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. *Provided that, with*

respect to all requests made pursuant to Part IX.A, Defendants, after attempting to resolve a dispute without court action and for good cause shown, may file a motion with this Court seeking an order for one or more of the protections set forth in Rule 26(c).

- B. For matters concerning this Order, the Commission or the State are authorized to communicate directly with each Defendant. Defendant must permit representatives of the Commission and the State to interview any employee or other person affiliated with any Defendant who has agreed to such an interview on any matters regarding any conduct subject to this Order. The person interviewed may have counsel present, including counsel for the Defendants.
- C. The Commission and the State may use all other lawful means to monitor Defendants' compliance with this Order, 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 or the State's lawful use of compulsory process, pursuant to any statute or regulation permitting the use of compulsory process, including section 42-110d of the Connecticut General Statutes.

X.

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.

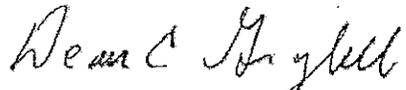
SO ORDERED this ____ day of _____, 2014.

UNITED STATES DISTRICT JUDGE

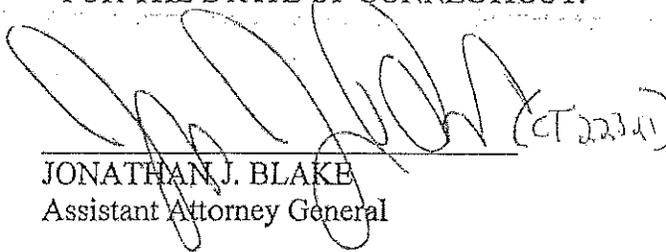
SO STIPULATED AND AGREED:

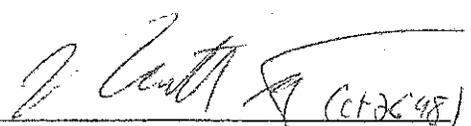
FOR THE FEDERAL TRADE
COMMISSION:


MAMIE KRESSES


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FOR THE STATE OF CONNECTICUT:


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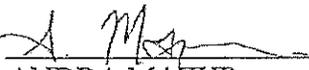

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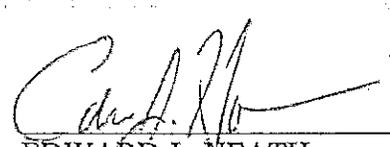
FOR THE DEFENDANTS:

TICKETNETWORK, INC.

By: 
ANDRA MAZUR
Counsel and Corporate Secretary

TICKET SOFTWARE, LLC

By: 
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Counsel and Corporate Secretary of
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