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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

TOM GEORGE, on behalf of himself  
and all others similarly situated,

Plaintiff,

v.

NATIONAL COLLEGIATE  
ATHLETIC ASSOCIATION, an Indiana  
unincorporated association;  
TICKETMASTER, INC., a Delaware  
Corporation,

Defendants.

Case No. **CV08-03401** (AGF) (AGR<sub>x</sub>)

CLASS ACTION

**CLASS ACTION COMPLAINT  
FOR (1) CIVIL RICO (STATE  
AND FEDERAL);  
(2) DECLARATORY RELIEF;  
(3) UNJUST ENRICHMENT;  
(4) CIVIL CONSPIRACY;  
(5) CAL B&P CODE § 17200;  
(6) MONEY HAD AND  
RECEIVED; and  
(7) IND. CODE § 24-5**

**DEMAND FOR JURY TRIAL**

CONFIRMATION COPY

COMPLAINT

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1 Plaintiff, by and through his counsel, upon personal knowledge as to his  
2 own acts and beliefs, and upon information and belief as to all matters based upon  
3 investigation of counsel, alleges as follows:  
4

## 5 I. JURISDICTION AND VENUE

6 1. This Court has subject-matter jurisdiction over this class action  
7 pursuant to the Class Action Fairness Act of 2005, which, *inter alia*, amends 28  
8 U.S.C. § 1332 to add a new subsection (d) conferring federal jurisdiction over  
9 class actions where, as here, “any member of a class of plaintiffs is a citizen of a  
10 State different from any Defendant” and the aggregated amount in controversy  
11 exceeds five million dollars (\$5,000,000). *See* 28 U.S.C. §§ 1332(d)(2) & (6).  
12

13 2. This Court has personal jurisdiction over the parties because Plaintiff  
14 submits to the jurisdiction of the Court, and Defendants systematically and  
15 continually conduct business throughout California, including marketing,  
16 advertising, and sales directed to California residents. Furthermore, Defendant  
17 Ticketmaster’s principal place of business is located in Los Angeles, California,  
18 and Defendant NCAA conducts substantial business within the state and in the  
19 Central District. Upon information and belief, a substantial portion of the  
20 decisions giving rise to this complaint took place in Los Angeles, California.  
21

22 3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(c)  
23 because Defendants, as corporations and unincorporated associations, are deemed  
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1 to reside in any judicial district in which [they are] subject to personal  
2 jurisdiction. This Court has personal jurisdiction over Ticketmaster because its  
3 principal place of business is located in the Central District of California, and  
4 jurisdiction over the NCAA because it conducts substantial business within the  
5 district and a substantial portion of the NCAA's conduct that gives rise to this  
6 complaint took place in the district.  
7  
8

## 9 II. INTRODUCTION

10 4. This is a proposed national class action alleging that the National  
11 Collegiate Athletic Association ("NCAA") and Ticketmaster operate illegal  
12 lotteries to sell and distribute tickets to certain NCAA Division I championship  
13 tournaments.  
14

15 5. Defendants' scheme requires Plaintiff and putative class members  
16 (collectively "Class Members") to purchase one or more entries for the chance to  
17 win the right to purchase tickets to a particular tournament game(s). This scheme  
18 satisfies all three elements of a lottery: (1) a prize, (2) an element of chance, and  
19 (3) consideration for the chance to win the prize. The consideration is the entry  
20 fee and the free use of applicants' capital, and the prize is the right to purchase  
21 game tickets at face value. An element of chance exists because the winning  
22 entries are chosen by an (allegedly) random drawing, and not all entries can win.  
23  
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1           6.     Lotteries, however, are illegal, and are considered gambling under  
2     Indiana and California law unless run by the state or licensed charities. Ind. Code  
3     § 35-45-5, *et seq.*, Article IV § 19 of the California Constitution, and CAL. PEN.  
4     CODE §§ 319-322. Defendants, located in California (Ticketmaster) and Indiana  
5     (NCAA), are not state agencies and do not have the requisite licenses to conduct  
6     lotteries. Defendants violate Indiana and California gambling laws by operating  
7     unlicensed lotteries.  
8

9  
10           7.     The NCAA and Ticketmaster operated, and continue to operate, a  
11     gambling enterprise by jointly designing and implementing lotteries. The federal  
12     Racketeer Influenced and Corrupt Organization Act, commonly referred to as  
13     RICO, makes it a federal racketeering offense to operate a gambling enterprise  
14     that violates state or federal law. *See* 18 U.S.C. §§ 1961, 1962(a)-(c). As such,  
15     Defendants' operation of an illegal gambling enterprise violates state and federal  
16     law.  
17

18  
19  
20           8.     Plaintiff represents a proposed class of consumers who have sought  
21     to purchase tournament tickets by participating in the lotteries set up by the  
22     NCAA and operated by Ticketmaster.  
23

24           9.     Defendant NCAA has been the leader in creating the illegal lottery  
25     scheme, while Ticketmaster has assisted in creating, furthering, and implementing  
26     the scheme under the NCAA's direction.  
27

10. This lawsuit, among other things, seeks to vindicate Class Members' rights by forcing Defendants to end their illegal lotteries and implement a system to distribute tickets that complies with federal and state law, and to secure a full refund of entry fees, disgorgement of all ill-gotten gains, statutory damages, treble damages, and attorneys' fees and costs.

### III. PARTIES

## A. PLAINTIFF

11. Plaintiff Tom George is a resident of Tempe, Arizona.

## B. DEFENDANTS

12. Defendant NCAA is an Indiana unincorporated association with its principal place of business at 700 West Washington Street, Indianapolis, Indiana, 46206. The NCAA is a voluntary organization through which the nation's colleges and universities govern their athletics programs. In 2008, the NCAA expects revenues to exceed \$600 million. The NCAA regularly conducts business within California and numerous members of its association are located within California.

13. Defendant Ticketmaster is a Delaware corporation with its principal place of business at 8800 West Sunset Boulevard, West Hollywood, California, 90069. Ticketmaster also has numerous locations throughout California, and

1 regularly conducts business in this state, including administering the lotteries  
2 described below.

#### 3 4 **IV. STATEMENT OF FACTS**

5 14. This case involves illegal lotteries designed and implemented by the  
6 NCAA and Ticketmaster to increase revenues at the expense of Class Members.  
7 The lotteries are related to, at the very least, the Division I NCAA collegiate  
8 men's and women's basketball and hockey championship tournaments, and may  
9 extend to other sporting events under the NCAA's control.  
10

11 15. The tournaments, administered by the NCAA, are operated in a  
12 similar manner, but vary as to the selection process, number of games, teams,  
13 dates, and other matters. The differences in the tournaments, however, are  
14 irrelevant for purposes of this complaint because the process to obtain tickets –  
15 the actionable conduct – is substantively the same for each tournament.  
16

17 16. Upon information and belief, the process to obtain tickets has been in  
18 use since at least 1994.  
19

20 17. Defendant Ticketmaster, upon information and belief, is a co-  
21 conspirator in creating, implementing, and/or furthering the lottery scheme under  
22 the NCAA's direction and control. Indeed, the NCAA has allowed Ticketmaster  
23 to operate the lotteries using NCAA branded websites and uses Ticketmaster's  
24  
25  
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28

1 proprietary software and hardware to implement the lottery and distribute  
2 winning applications.

3  
4 18. For purposes of illustration, the NCAA Men's Division I Basketball  
5 Championship Tournament will be used to explain how the lottery operates.

6 **A. THE MEN'S DIVISION I BASKETBALL CHAMPIONSHIP**  
7 **TOURNAMENT**

8  
9 19. The NCAA men's basketball championship tournament begins when  
10 the NCAA selection committee invites 65 teams to participate in the single  
11 elimination tournament.

12  
13 20. After the selection process is complete, the teams are seeded and  
14 divided into four regions. The teams in each region play each other using a single  
15 elimination format. The winner of each region advances to a championship round  
16 known as the "Final Four."

17  
18 **Preliminary Round Tickets**

19  
20 21. People who wish to purchase face-value tickets to games in the  
21 preliminary rounds are required to participate in the Defendants' lottery. The  
22 lottery first requires Class Members to submit an "application, which can request  
23 up to eight tickets." Class members are limited to one application per  
24 individual/household.  
25  
26  
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28



1           22.    An application gives the applicant one entry into a random drawing  
2 to win tickets. For preliminary rounds, the entry fee (referred to by Defendants as  
3 a “service fee”) to participate in the drawing is \$10. Electronic payments must be  
4 made via the Internet with a checking account or credit card and are processed  
5 and posted on the next business day after the submission of application. In the  
6 preliminary rounds, a drawing is held if the number of applications exceeds the  
7 number of tickets. If the number of tickets is sufficient to fulfill all applications,  
8 the tickets are assigned based on when the application was received. Upon  
9 information and belief, the number of applicants greatly exceeds the number of  
10 tickets on virtually every occasion.

11           23.    In addition to the entry fee, the applicant must also submit the full  
12 ticket price with the application. For example, if the applicant wanted two tickets  
13 for a preliminary round game, each costing \$100.00, an application would require  
14 a \$210.00 payment (the cost of two tickets, plus the \$10.00 fee to enter the  
15 lottery).

16           24.    If the applicant “wins” the lottery by having his entry drawn, the  
17 tickets are delivered by overnight mail. If the applicant does not win, the price of  
18 the tickets is returned, but the NCAA keeps the entry fee. For example, the losing  
19 applicant in the preceding paragraph is sent \$200.00, while the lottery winner  
20

1 receives two tickets. Neither the losers nor the winners get their entry fees  
2 refunded.

3  
4 25. The NCAA does not commit on when losing ticket applicants will  
5 have their money returned. Upon information and belief, the money is not  
6 returned for several months, well after the preliminary-round lotteries are  
7 concluded.  
8

9 26. Preliminary round ticket distribution is handled in the same manner  
10 for all major Division I championship tournaments, and the \$10 entry fee is the  
11 same for all preliminary rounds.  
12

### 13 **The Final Four**

14 27. Tickets for the final round – the Final Four – are also awarded by a  
15 drawing of “entries,” but the costs are significantly higher.  
16

17 28. The Final Four consists of three games – two semifinal games and  
18 the championship game. In 2008, the men’s championship game was nationally  
19 televised and watched by almost 20 million viewers.  
20

21 29. The tournament is very lucrative for the NCAA. The television  
22 contract between CBS and the NCAA alone guarantees the NCAA six billion  
23 dollars in revenues for the right to televise collegiate basketball games, including  
24 the men’s basketball tournament, over an eleven-year period.  
25  
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1           30. To enter the 2009 men's basketball Final Four lottery, consumers are  
2 required to submit applications between March 15, 2008, and May 31, 2008.

3  
4           31. Each applicant can only submit one "application," but each  
5 application can contain up to 10 "entries." Each "entry" is a chance to win up to  
6 two tickets to the Final Four and requires a "non-refundable handling fee" of  
7 \$6.00.  
8

9           32. Like the \$10.00 fee for the preliminary rounds, the \$6.00 fee is a  
10 required entry fee that gives the applicant the right to participate in the lottery.  
11 Each entry is a "chance" to win tickets through an allegedly random selection  
12 process. The ability to win is based purely on chance and is not related to skill,  
13 diligence, or knowledge.  
14

15  
16           33. In addition to the entry fee, the applicant must pay the full price of  
17 each ticket at the time of application. There are two tiers of ticket prices, either  
18 \$150 or \$170 per ticket, depending on where the seat is located.  
19

20           34. To maximize the chances of winning a lottery, the applicant would  
21 submit one application with 10 entries. Each entry would seek two tickets – the  
22 maximum number of tickets that can be awarded – and would require a \$6.00  
23 entry fee and the total cost of both tickets. This would result in a \$3,060.00 or  
24 \$3,460.00 payment to the NCAA, depending on which price level the applicant  
25 requested.  
26  
27

1           35. Applicants, however, can only win the lottery once. Thus, would-be  
2 ticket purchasers can pay up to \$3,460.00 for the right to enter the lottery and  
3 win, at most, two tickets to the Final Four. The NCAA permits applicants to  
4 increase their odds of being drawn by submitting multiple entries solely to  
5 increase revenues, not to facilitate the distribution of its tickets.  
6

7           36. If an applicant wins the lottery, the NCAA sends the tickets by  
8 overnight mail and deducts the ticket costs and entry fees (for all entries) from the  
9 money submitted, and the remainder is returned. In the example in paragraph 34,  
10 the NCAA deducts the tickets' cost (\$300.00 or \$340.00) and the entry fee for all  
11 entries (\$60.00), and returns the remainder.  
12

13           37. If an applicant loses the lottery, the NCAA reimburses the applicant  
14 for the amount paid for each ticket, but keeps the entry fee(s). So, an applicant  
15 that paid for the maximum chance, but lost on all ten entries would, at some  
16 point, receive his ticket monies back, but not the \$60.00 in entry fees.  
17

18           38. The entry fee has no relationship to the costs of running the lottery  
19 and grossly exceeds any costs associated with the lottery.  
20

21           39. These entry fees are on the rise. Upon information and belief, the  
22 NCAA has charged at least a \$5.00 entry fee since 1994 for men's and women's  
23 basketball and for Frozen Four (hockey) tickets. The entry fee in hockey  
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1 increased to no less than \$6.00 in 2008, and in 2009, the entry fee increased to  
2 \$7.00.

3  
4 40. In addition to the entry fees, the NCAA holds the money it receives  
5 from applicants for up to seven months and reaps huge profits. In 2007, for  
6 example, the NCAA stopped accepting applications for the lottery on May 31,  
7 2006, but reimbursements were not issued until October 2006. By its own  
8 admission, the NCAA held applicants' money for about five months, and possibly  
9 much longer (applications were first accepted in March).

10  
11 41. Upon information and belief, the NCAA collected approximately  
12 100 million dollars in payments in 2008 – total ticket prices, plus entry fees – but  
13 did not return money to ticket holders for at least five months. The NCAA reaps  
14 a huge financial windfall from, at the very least, the use of the lottery applicants'  
15 money.

16  
17 42. The NCAA does not give this money to the applicants or, upon  
18 information and belief, use the money to offset the costs associated with running  
19 the lottery. In addition, the chances of being selected in the lottery are extremely  
20 low (approximately three percent), but the costs associated with entering the  
21 lotteries are extremely high. Applicants can easily pay over \$100 just to enter the  
22 lottery and, at best, win the right to purchase tickets at face-value. The NCAA,  
23 however, does not return or offset ticket prices with any of the monies collected  
24  
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28

1 in the lotteries or assume any risk. To the extent there are not enough applicants  
2 to hold a lottery, the NCAA sells the tickets at face value to applicants and the  
3 general public. Thus, the lotteries are a windfall to the NCAA at the expense of  
4 class members. The very few applicants who “win” the lottery merely earn the  
5 right to purchase tickets at face value, while all applicants collectively pay huge  
6 sums of money to the NCAA for the chance to win that right.  
7

8  
9 **B. TICKET SCARCITY**

10 43. Tickets to the tournaments are highly prized. The NCAA no longer  
11 discloses how many people enter the lotteries, but according to the LOS ANGELES  
12 TIMES, more than 267,000 people sought tickets to the 1994 Final Four alone.  
13

14 44. The venues, however, are much too small to meet ticket demand.  
15 For example, the 2009 Final Four will be held at Ford Field in Detroit, and the  
16 NCAA estimates seating for up to 70,000 fans, making it one of the larger venues.  
17 But the number of tickets distributed through the lottery is only a fraction of total  
18 tickets available. For example, though the NCAA has not disclosed how many  
19 tickets will be distributed in the 2009 lottery, approximately 4,600 tickets were  
20 distributed in 2008 via the lottery. Thus, the ticket’s market value on the resale  
21 market is high due to the scarcity of the resource.  
22  
23

24 45. In addition, Defendants make certain representations to help bolster  
25 interest and sales for the tournaments. Men’s basketball, for example, has two  
26  
27

1 levels of seating, and Defendants represent that tickets are distributed from each  
2 level and that certain seats in particular levels are available in the lottery. For  
3 instance, Defendants suggest in their advertising that seats are available at half  
4 court in the first row in the arena's upper level. Upon information and belief, this  
5 is not true. Upon further information and belief, seats depicted as available are  
6 not available in the drawing. Likewise, the NCAA represents that the ticket  
7 drawing is random, when, upon information and belief, it is manipulated to  
8 accommodate Defendants' business needs.  
9  
10

### 11 **C. PLAINTIFF**

12  
13 46. Plaintiff Tom George has entered lotteries for NCAA tournament  
14 tickets for the last several years. George primarily submits applications to the  
15 men's basketball lotteries.  
16

17 47. George is familiar with large venue ticket practices, having run the  
18 ticket office for Dillard's Inc., an operator of over 300 retail department stores  
19 located primarily in the southeastern, southwestern, and midwestern areas of the  
20 United States.  
21

22 48. In 2008, George submitted an application for the 2009 Final Four on  
23 April 15, 2008, using the lottery described above.  
24

25 49. The website George used to apply for tickets was owned by the  
26 NCAA, but was operated and serviced by Ticketmaster. George's application  
27  
28

1 consisted of one entry seeking two tickets at the \$170.00 price level, and he  
2 submitted a total payment of \$346.00 with his application.

3  
4 50. Last year, George paid six dollars to Defendants as an entry fee for  
5 his application to the lottery, and provided Defendants with the full ticket price of  
6 the tickets he sought. George did not receive interest or otherwise receive  
7 compensation for the time-value of money he provided to Defendants even  
8 though Defendants held his money for several months. During the class period,  
9 George has paid (in cash or the use of money without interest) at least \$100.00 to  
10 the NCAA for the right to enter ticket lotteries.  
11  
12

## 13 V. CLASS ALLEGATIONS

14 51. Plaintiff brings this action pursuant to Rule 23 of the Federal Rules  
15 of Civil Procedure, on behalf of himself and the Class comprised of:  
16

17 All persons who, from the date ten years prior to the filing of  
18 the complaint to the date of judgment in this case, submitted  
19 an application for tickets to an NCAA championship  
20 tournament and paid a fee to enter a drawing for the right to  
purchase one or more tickets.

21 52. Excluded from the Class are Defendants, any entity in which the  
22 Defendants have a controlling interest, any employees, officers or directors of the  
23 Defendants, the legal representatives, heirs, successors, and assigns of  
24 Defendants, any judge or employee of the Court assigned to work on this lawsuit,  
25 and Plaintiff's attorneys and staff.  
26  
27  
28



1           53. This action may properly be maintained as a class action because it  
2 satisfies the numerosity, typicality, adequacy, predominance and superiority  
3 requirements of Rule 23 of the Federal Rules of Civil Procedure.  
4

5 **A. NUMEROSITY**  
6

7           54. Although the exact size of the Class is unknown, Plaintiff believes  
8 the Class numbers in the hundreds of thousands. Assuming ticket applications  
9 have remained constant since 1994, based on reported figures that referenced only  
10 men's Final Four tickets, the Class numbers in the millions. Given the Class size,  
11 numerosity is clearly satisfied.  
12

13 **B. COMMONALITY**  
14

15           55. There are numerous questions of law and fact common to the Class,  
16 including, but not limited to:  
17

- 18           a. Whether NCAA or Ticketmaster created and operated a lottery;  
19           b. Whether NCAA or Ticketmaster's lotteries are illegal under state  
20 and/or federal law;  
21           c. Whether the subject matter of the contract between NCAA and  
22 Class Members precludes contract formation and renders the contract void;  
23           d. Whether the NCAA and Ticketmaster were unjustly enriched  
24 because of their illegal contract;  
25  
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1 e. Whether the NCAA and Ticketmaster violated 18 U.S.C.  
2 § 1962(c) (RICO Act) by creating, implementing and operating an illegal lottery;  
3 or the Indiana state counterpart statute (Indiana Code § 35-45-6-2);  
4

5 f. Whether the NCAA and Ticketmaster committed the predicate  
6 acts of illegal gambling; and  
7

8 g. Whether the NCAA and Ticketmaster formed an enterprise to  
9 carry out the illegal lottery.

10 **C. TYPICALITY**  
11

12 56. Plaintiff's claims are typical of the claims of the Class as a whole.  
13 Plaintiff has the same interests in this matter as all other Class Members, and his  
14 claims are typical of all Class Members. Plaintiff and all Class Members have  
15 sustained damages arising out of the NCAA's and Ticketmaster's common course  
16 of conduct as outlined above, and the damages of each class member were caused  
17 by the same misconduct.  
18  
19

20 **D. ADEQUACY**  
21

22 57. Plaintiff will fairly and adequately protect the interests of the Class.  
23 The interests of Plaintiff are coincident with, and not antagonistic to, those of the  
24 remainder of the Class. Plaintiff is committed to pursuing the action and has  
25  
26  
27  
28

1 obtained counsel experienced and qualified to prosecute this action and class  
2 actions generally.

3  
4 **E. COMMON QUESTIONS PREDOMINATE, AND THE CLASS**  
5 **ACTION DEVICE IS SUPERIOR**

6 58. Prosecution as a class action will eliminate the possibility of  
7 repetitious litigation, while also providing redress of claims too small to support  
8 the expense of individual claims.

9  
10 59. Class treatment is also appropriate because the NCAA and  
11 Ticketmaster have acted uniformly with respect to all Class Members.

12  
13 60. The questions of law and fact common to the members of the Class  
14 predominate over any questions affecting any individual member, and a class  
15 action is superior to other available methods for the fair and efficient adjudication  
16 of the controversy. Further, even if this were not the case, numerous claims or  
17 issues are appropriate for class treatment.

18  
19 61. Joinder of all Class Members who are geographically dispersed and  
20 number, upon information and belief, in the hundreds of thousands is  
21 impracticable. Furthermore, the expense and burden of individual litigation  
22 makes it impractical to adjudicate their claims on an individual-by-individual  
23 basis. Upon information and belief, Class Members are not already engaged in  
24 litigation concerning this controversy. This is a desirable forum, as it is home to a  
25  
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1 large number of Class Members, it is geographically convenient to a majority of  
2 the parties, and Defendants are subject to the personal jurisdiction of this Court.

3  
4 **F. THE PREREQUISITES TO MAINTAINING A CLASS ACTION**  
5 **FOR DECLARATORY RELIEF ARE READILY APPARENT**

6 62. The prerequisites to maintaining a class action for injunctive relief  
7 pursuant to Civ. R. 23(b)(2) exist as Defendants have acted or refused to act on  
8 grounds generally applicable to the class.  
9

10 63. The subject matter of the contracts between Defendants and Class  
11 Members is illegal – *i.e.*, the implementation of an illegal lottery. As such, the  
12 contracts are void under public policy.  
13

14 64. Plaintiff and Class Members, therefore, seek an order declaring the  
15 contracts void.  
16

17 65. Plaintiff and Class Members have no adequate remedy at law for the  
18 injuries that are likely to recur, in that, absent action from this Court, Defendants  
19 will continue to enter into and enforce contracts that are repugnant to public  
20 policy and based on illegal conduct.  
21

22 66. The prosecution of separate actions by members of the Class would  
23 create a risk of establishing incompatible standards of conduct for Defendants.  
24

25 67. Defendants' actions are applicable to the Class as a whole, and  
26 therefore declaratory relief with respect to the class as a whole is appropriate.  
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**VI. CAUSES OF ACTION**

**COUNT I**  
**Violations of 18 U.S.C. § 1962(c)**  
**(As to all Defendants)**

68. Plaintiff realleges and incorporates by reference each of the allegations contained in the preceding paragraphs.

69. Plaintiff, Class Members, and Defendants are all “persons,” as that term is defined in 18 U.S.C. § 1961(3).

70. At all relevant times, in violation of 18 U.S.C. § 1962(c), Defendants conducted the affairs of certain association-in-fact enterprises identified herein, the affairs of which affected interstate commerce through a pattern of racketeering activity.

71. For purposes of this claim, the RICO enterprise is an association-in-fact consisting of (a) the NCAA, including its directors, employees and agents, and (b) Ticketmaster, including its directors, employees and agents, who together operate various ticket lotteries (the “Lottery Enterprise”). The Lottery Enterprise is an ongoing and continuing business organization consisting of both entities and individuals that are and have been associated for the common or shared purposes of creating an illegal lotteries and deriving increased profits from the activities of the Lottery Enterprise.

1           72.    The Lottery Enterprise has a systemic linkage because there are  
2 contractual relationships, financial ties, and continuing coordination of activities  
3 between the NCAA and Ticketmaster. NCAA and Ticketmaster also use, to this  
4 day, a common communication network to share information on a regular basis.  
5 Typically, this communication occurred and continues to occur by use of wires  
6 and mails in which the NCAA and Ticketmaster will discuss and agree on a  
7 marketing campaign and the structure of the lotteries. The NCAA and  
8 Ticketmaster function as a continuing unit for the purposes of implementing the  
9 unlawful lotteries.  
10

11  
12  
13           73.    At all relevant times, Ticketmaster was aware of the NCAA's  
14 conduct, was a knowing and willing participant in that conduct, and reaped profits  
15 from that conduct. The NCAA and Ticketmaster were aware or should have been  
16 aware that the lotteries were and are illegal under state and federal law. Among  
17 other things, the NCAA and Ticketmaster researched and included lengthy legal  
18 requirements and conditions in the agreement between Defendants and Class  
19 Members. Thus, the NCAA and Ticketmaster clearly contemplated the legal  
20 ramifications of the lotteries and knew or should have known that they were  
21 illegal.  
22  
23  
24

25           74.    The NCAA and Ticketmaster, moreover, are sophisticated entities  
26 operating in all 50 states. Ticketmaster is especially experienced in the field. By  
27  
28

1 its own admissions, it is “the world’s leading live entertainment ticketing and  
2 marketing company.” The company “serves more than 9000 clients worldwide  
3 across multiple event categories, providing exclusive ticketing services for  
4 leading arenas, stadiums, professional sports franchises and leagues, college  
5 sports teams, performing arts venues, museums, and theaters.” Ticketmaster  
6 “currently operate[s] in 20 markets worldwide facilitating ticket sales, ticket  
7 resale services, marketing and distribution through [www.ticketmaster.com](http://www.ticketmaster.com), one of  
8 the largest e-commerce sites on the Internet, 6,700 retail outlets and a global  
9 network of call centers.” Likewise, the NCAA operates the athletic programs for  
10 the nation’s colleges and universities, and derives significant revenues from the  
11 sale of tickets to sporting events. Thus, the NCAA knew or should have known  
12 that its lotteries were illegal under state law, and Ticketmaster, as the world’s  
13 largest ticket broker, knew or should have known that the lotteries, as formed by  
14 the NCAA, were an illegal method of distribution under state and federal law.  
15

16 75. The Lottery Enterprise is still operating – the NCAA and  
17 Ticketmaster are currently accepting applications, and still reaping profits based  
18 on their continued illegal conduct.  
19

1     **A.     DEFENDANTS' VIOLATION OF STATE AND FEDERAL**  
2     **GAMBLING STATUTES**

3             76.     The Lottery Enterprise engaged in and affected interstate commerce  
4     because it engaged in the following activities across state boundaries: The  
5     creation, use, and furtherance of an illegal gaming operation in violation of state  
6     and federal law.

7  
8             77.     18 U.S.C. §1955 prohibits gaming activity that violates state law,  
9     involves five or more persons, and has been in continuous operation for more  
10    than 30 days or has gross revenues of \$2000 in any single day.

11  
12            78.     Here, the lotteries are an illegal gaming activity in violation of Ind.  
13    Code § 35-45-5-2, Article IV §19 of the California Constitution, and CAL. PEN.  
14    CODE §§ 319-322. Under Indiana and California law, lotteries are illegal unless  
15    run by the state or a licensed agency. Defendants, nonetheless, operated illegal  
16    lotteries to distribute tickets to NCAA tournament games. Defendants' scheme  
17    was simple. Defendants solicited consumers to pay money for an entry into a  
18    random drawing for the chance to purchase tickets. Winners received tickets,  
19    while losers won nothing. Both winners and losers, however, lost the money (or  
20    other things of value) they paid to enter the lottery. This is the essence of a  
21    lottery: (1) a prize, (2) an element of chance, and (3) consideration for the chance  
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1 to win the prize. But because Defendants are not state agencies or licensed to run  
2 lotteries, they violate state law by operating an illegal lottery enterprise.

3  
4 79. The NCAA and Ticketmaster, moreover, employ five or more  
5 persons in furtherance of the Lottery Enterprise, have operated lotteries  
6 continuously since at least 1994, and have generated gross revenues that exceed  
7 two thousand dollars on many days.  
8

9 80. As a direct and proximate cause of the illegal gaming activity,  
10 Plaintiff and Class Members were injured in their business or property because  
11 Plaintiff and Class Members have paid millions in lottery fees, and lost the use of  
12 their money.  
13

14 **B. CONDUCT OF THE RICO ENTERPRISE'S AFFAIRS**

15  
16 81. During the Class Period, the NCAA exerted control over the Lottery  
17 Enterprise and, in violation of Section 1962(c) of RICO, it has conducted or  
18 participated in the conduct of the affairs of the Lottery Enterprise, directly or  
19 indirectly, in the following ways:  
20

21 a. The NCAA had and continues to have a degree of control  
22 concerning the conduct and operation of the lottery; and  
23

24 b. The NCAA, upon information and belief, directly controlled, and  
25 continues to directly control, the creation and distribution of marketing, sales, and  
26  
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28

1 other materials used to inform Class Members of the lotteries and the rules related  
2 thereto.

3  
4 82. The Lottery Enterprise had and continues to have a hierarchical  
5 decision-making structure headed by the NCAA. The NCAA issued instructions  
6 on how the Lottery was to operate and Ticketmaster accepted those instructions  
7 despite knowing that the entire enterprise was illegal.  
8

9 83. Ticketmaster allowed, and continues to allow, the NCAA to exert  
10 control over its organization knowing that the lottery is illegal. Ticketmaster has  
11 participated and continues to participate in the enterprise because the revenues  
12 generated by NCAA ticket sales using illegal lotteries were and are a significant  
13 part of its business, and the NCAA was integral to increasing Ticketmaster's  
14 profits for the reasons set forth herein.  
15  
16

17 84. In violation of Section 1962(c) of RICO, each Defendant conducted  
18 the affairs of the Lottery Enterprise with which it associated by, among other  
19 things, operating as illegal lotteries.  
20

### 21 **C. DEFENDANTS' PATTERN OF RACKETEERING ACTIVITY**

22 85. Each of the Defendants conducted and participated in the affairs of  
23 the Lottery Enterprise through a pattern of racketeering activity, including acts  
24 that are indictable under 18 U.S.C. § 1955, relating to illegal gambling.  
25

26 Defendants' pattern of racketeering involved thousands of separate instances of  
27  
28

1 Defendants knowingly soliciting and accepting Class Members' money in  
2 furtherance of a gambling enterprise Defendants knew or should have known was  
3 illegal. Each transaction involving the solicitation and acceptance of Class  
4 Members' money constitutes a "racketeering activity" within the meaning of 18  
5 U.S.C. § 1961(1)(B). Collectively, these violations constitute a "pattern of  
6 racketeering activity," within the meaning of 18 U.S.C. § 1961(5), in which the  
7 NCAA and Ticketmaster intended to unlawfully obtain money from Plaintiff and  
8 Class Members.  
9  
10

11           86. The NCAA and Ticketmaster calculated and intentionally designed  
12 the lotteries to ensure that Class Members would pay entry fees that would create  
13 significant revenues for the NCAA. In designing and implementing the lotteries,  
14 the NCAA and Ticketmaster were cognizant of the fact that Class Members, most  
15 of whom are not Indiana or California residents, would not know and have no  
16 reason to know that the Lottery was illegal and that they would rely on the  
17 integrity and business acumen of the NCAA and Ticketmaster as to the legality of  
18 the lotteries.  
19  
20  
21

22           87. The NCAA and Ticketmaster have each engaged in the pattern of  
23 racketeering activity for conducting the ongoing business affairs of the Lottery  
24 Enterprise.  
25  
26  
27  
28

1     **D.     DAMAGES CAUSED BY DEFENDANTS' ILLEGAL LOTTERY**

2             88.     Defendants' violation of federal and state law, and their pattern of  
3     racketeering activity, has directly and proximately caused Plaintiff and Class  
4     Members to be injured in their business or property because Class Members have  
5     paid millions of dollars in lottery fees, lost the time value of money, and  
6     unknowingly participated in an illegal lottery.  
7

8  
9             89.     Under the provisions of Section 1964(c) of RICO, the NCAA and  
10     Ticketmaster are jointly and severally liable to Class Members for three times the  
11     damages that Class Members have sustained, plus the costs of bringing this suit,  
12     including reasonable attorneys' fees.  
13

14                             **COUNT II**  
15             **Violations of Ind. Code § 35-45-6-2 (Corrupt Business Influences Act)**  
16                             **(As to all Defendants)**

17             90.     Plaintiff realleges and incorporates by reference each of the  
18     allegations contained in the preceding paragraphs.  
19

20             91.     Plaintiff specifically realleges the allegations contained in Count I  
21     because they relate directly to this cause of action, commonly referred to as the  
22     Indiana Racketeer Influenced and Corrupt Organization Act.  
23

24             92.     Defendants, as described more specifically in Count I, have  
25     knowingly and intentionally received, and continue to receive, proceeds derived  
26     from a pattern of racketeering activity.  
27

1           93. Defendants use and invest those proceeds or the proceeds derived  
2 from them, to acquire, establish, and operate an illegal gaming enterprise.

3           94. Defendants, through a pattern of racketeering activity more fully  
4 described under Count I, knowingly and intentionally acquired and maintained,  
5 and continue to acquire and maintain, an interest in an illegal gaming enterprise.

6           95. Plaintiff and Class members are aggrieved persons under Ind. Code §  
7 34-24-2-6, in that they have been harmed by Defendants' pattern of racketeering  
8 activity, and acquisition and maintenance of an illegal gaming enterprise.

9           96. Specifically, Class Members have paid millions of dollars in lottery  
10 fees, lost time value of money, and innocently participated in illegal lotteries.

11           97. Plaintiff and Class Members continue to suffer from Defendants'  
12 corrupt business influences, and seek an injunction preventing Defendants from  
13 continuing their illegal activity.

14           98. Defendants are liable to Class Members for three times the actual  
15 damages, the costs of bringing this suit, including reasonable attorneys' fees, and  
16 punitive damages.

17           99. The illegal gaming enterprise is headquartered in Indiana.

**COUNT III**  
**Declaratory Judgment (Ind. Code §34-14, *et seq.*)**  
**(As to all Defendants)**

100. The preceding paragraphs of this Complaint are realleged and incorporated by reference as though fully set forth herein.

101. The subject matter of the contracts between Defendants and Class Members is illegal – *i.e.* the implementation of illegal lotteries. As such, the contracts are void as a matter of public policy and devoid of an element required for contract formation.

102. Class Members, therefore, seek an order declaring the contracts void *ab initio* under the Indiana Uniform Declaratory Judgment Act, Indiana Code §34-14-1, *et seq.*

103. Class Members have no adequate remedy at law for the injuries which are threatened to recur, in that, absent action from this Court, Defendants will continue to enter into and enforce contracts that are repugnant to public policy and based on unfair, deceptive and fraudulent practices.

104. Defendants' actions are applicable to the Class as a whole, and therefore declaratory relief with respect to the Class as a whole is appropriate.

**COUNT IV**  
**Unjust Enrichment**  
**(As to all Defendants)**

105. The preceding paragraphs of this Complaint are realleged and incorporated by reference as though fully set forth herein.

106. There are no valid contracts between Defendants and Class Members, only illegal agreements written by Defendants.

107. The agreements effectuate illegal lotteries created, implemented, and furthered by the NCAA and its agents, to include defendant Ticketmaster.

108. The NCAA and Ticketmaster knew or should have known that the subject matter of the agreements, to the extent they effectuated illegal lotteries, and because they lacked a necessary element for a contract, were void from inception under state law.

109. Plaintiff and Class Members, on the other hand, entered into the agreements without a basis to know or even suspect that the agreements were part of an illegal lottery operation and void under state law.

110. Plaintiff and Class Members are innocent parties to illegal lotteries and void contracts. Defendants had the resources and ability to research and investigate applicable laws and regulations and rely on professional advice. Upon information and belief, they did so. Defendants were in a far better position to assess the legality and propriety of the lotteries.

1 111. Defendants, because of their illegal agreements, were unjustly  
2 enriched at the expense of Class Members, and Class Members suffered a  
3 detriment because of Defendants' illegal conduct.  
4

5 112. Defendants should not be unjustly enriched due to the illegal  
6 agreements they created.  
7

8 113. Plaintiff seeks an order disgorging all ill-gotten gains derived from  
9 the illegal contracts, to include, but not necessarily limited to, entry fees and all  
10 monetary benefits derived from money submitted to Defendants from the NCAA.  
11

12 **COUNT V**  
13 **Civil Conspiracy**  
14 **(As to all Defendants)**

15 114. The preceding paragraphs of this Complaint are realleged and  
16 incorporated by reference as though fully set forth herein.

17 115. Defendants joined in a conspiracy to implement illegal lotteries.  
18 Each Defendant also agreed to publish or caused to be published marketing  
19 materials with the express intention to further the illegal lotteries. Both  
20 Defendants knew that by agreeing to implement the illegal lotteries, they were  
21 violating state and federal law as described above.  
22

23 116. Defendants consciously conspired and deliberately pursued a  
24 common plan or design to commit illegal acts, subjecting each to joint and several  
25 liability.  
26  
27



1 117. Defendants each committed one or more unlawful acts in furtherance  
2 of this conspiracy, including acts violating RICO and state and federal gambling  
3 laws. All of these acts were in furtherance of the conspiracy. Defendants further  
4 harmed Plaintiff and Class Members by soliciting their participation in the illegal  
5 lotteries.  
6

7  
8 118. As a direct, proximate result of this conspiracy, Plaintiff and Class  
9 Members have been injured, as they have suffered and continue to suffer  
10 economic losses and general and specific damages, all in an amount to be  
11 determined according to proof.  
12

13 **COUNT VI**  
14 **California Business & Professions Code § 17200, *et seq.***  
15 **(As to Defendant Ticketmaster only)**

16 119. The preceding paragraphs of this Complaint are realleged and  
17 incorporated by reference as though fully set forth herein.

18 120. Ticketmaster's conduct, as previously alleged, constituted and  
19 constitutes unfair, unlawful, and fraudulent business practices in violation of §  
20 17200, *et seq.* of the California Business and Professions Code. The conduct is  
21 unfair, unlawful, and fraudulent because, among other things, it violates state and  
22 federal gaming laws, RICO, and the common law.  
23  
24

25 121. Plaintiff has been injured in fact and lost money or property as a  
26 result of Defendants unfair competition. Ticketmaster's conduct has further  
27  
28

1 caused, and is causing, injury to Class Members. Class Members are therefore  
2 entitled to restitution and injunctive relief, interest, costs, and attorneys' fees,  
3 pursuant to California Code of Civil Procedure § 1021.5, and request the  
4 following injunctive relief: (a) That Ticketmaster be ordered to cease and desist  
5 from continuing to engage in the business acts and practices which are described  
6 herein and are unfair, unlawful and deceptive; and (b) that Ticketmaster make full  
7 restitution to Plaintiff and Class Members, plus interest.  
8

9  
10 **COUNT VII**  
11 **Monies had and received**  
12 **(As to Defendant NCAA only)**

13 122. The preceding paragraphs of this Complaint are realleged and  
14 incorporated by reference as though fully set forth herein.  
15

16 123. Once again, there are no contracts between Defendants and Class  
17 Members, only illegal agreements.

18 124. The agreements effectuate illegal lotteries created, implemented, and  
19 furthered by the NCAA and its agents, to include Defendant Ticketmaster.  
20

21 125. The NCAA and Ticketmaster knew or should have known that the  
22 agreements, to the extent they effectuated illegal lotteries, were void.  
23

24 126. Plaintiff and Class Members, on the other hand, entered into the  
25 agreements without a basis to know or even suspect that the agreements were part  
26 of an illegal lottery operation and void under state law.  
27

1           127. Plaintiff and Class Members are innocent parties to illegal lotteries  
2 and void contracts. Defendants had the resources and ability to research and  
3 investigate applicable laws and regulations and rely on professional advice. Upon  
4 information and belief, they did so. The attempted contracts are void as a matter  
5 of law. There was no consideration or, at the very least, a failure of consideration  
6 by Defendants. Defendants, nonetheless, received consideration from Plaintiff  
7 and Class Members.  
8

9  
10           128. Defendants solicited and accepted money from Class Members and  
11 Plaintiff in furtherance of their illegal lotteries.  
12

13           129. The money received from Plaintiff and Class Members is not related  
14 to the cost of distributing tickets, in that the entire process is automated and, upon  
15 information and belief, Defendants' costs are negligible.  
16

17           130. Defendants have received monies from Class Members. Equity and  
18 good conscience requires Defendants to return all money received from Plaintiff  
19 and Class Members, and it would be inequitable for Defendants to retain money  
20 received from Plaintiff and Class Members.  
21

22           131. As such, Plaintiff seeks an order returning all money received from  
23 Plaintiff and Class Members.  
24

**COUNT VIII**  
**Indiana Consumer Protection Act (Indiana Code § 24-5, *et seq.*)**  
**(As to Defendant NCAA only)**

132. The preceding paragraphs of this Complaint are realleged and incorporated by reference.

133. Indiana Code Section 24-5-0.5-3(1) prohibits acts or representations regarding a consumer transaction, if “the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have.”

134. Indiana Code Section 24-5-0.5-10 prohibits the following deceptive and unconscionable acts: “A supplier commits a deceptive act if the supplier gives any of the following representations, orally or in writing, or does any of the following acts: (1) Either (A) solicits to engage in a consumer transaction without a permit or other license required by law; (B) solicits to engage in a consumer transaction if a permit or other license is required by law to engage in the consumer transaction and the supplier is not qualified to obtain the required permit or other license or does not intend to obtain the permit or other license; or (C) engages in a consumer transaction without a permit or other license required by law.”

1           135. The NCAA made a series of representations regarding the fees  
2 charged to Class Members. The NCAA claims that the entry fee is a “handling  
3 fee” or “service fee,” but in reality the fee is not related to handling or service  
4 costs and grossly exceeds any costs associated with operating the lotteries. The  
5 NCAA’s misrepresentations regarding the handling and service fees violate § 24-  
6 5-0.5-3(1).  
7  
8

9           136. The NCAA also represents that the money earned on funds deposited  
10 with Defendants during the lottery process is used to “defray the costs of  
11 administering the ticket application, drawing and distribution process, and any  
12 additional revenue over that cost is applied to the general fund of the NCAA...”  
13 The handling/service fees, however, are more than sufficient to cover any costs  
14 associated with the ticket application, drawing and distribution process.  
15  
16

17           137. Accordingly, the money is not used to defray the costs of running  
18 lotteries; the money is used to enrich the NCAA. The NCAA’s  
19 misrepresentations to the contrary violate § 24-5-0.5-3(1).  
20

21           138. Furthermore, the NCAA operated and continues to operate lotteries  
22 without a license. The NCAA solicited Class Members to participate in its  
23 unlicensed lotteries, and continue to solicit the general public to participate in the  
24 lotteries, even though it has not obtained a license and is not qualified to obtain a  
25 license. The NCAA’s solicitation of Class Members, and continued solicitation  
26  
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28

1 of the general public, violates § 24-5-0.5-10. The NCAA also violates § 24-5-  
2 0.5-10 by using the lottery to distribute tickets, because the NCAA is engaging in  
3 a consumer transaction for which it does not have a license.  
4

5 139. The NCAA, upon information and belief, also misrepresents that the  
6 ticket drawing is random because it manipulates the drawing to accommodate its  
7 business needs. Likewise, the NCAA misrepresents what tickets are available to  
8 lottery participants.  
9

10 140. The representations made by the NCAA were willful and intended to  
11 mislead Class Members.  
12

13 141. On April 19, 2008, Plaintiff sent a letter to Defendant NCAA  
14 demanding that the NCAA cure the aforementioned violations as required by  
15 Indiana Code § 24-5-0.5-5.  
16

17 142. The NCAA had until May 20, 2008 to remedy or otherwise respond  
18 to Plaintiff's demand.  
19

20 143. Defendant NCAA has not answered the letter, let alone cured the  
21 defects addressed therein. As a result of the NCAA's failure to respond, the acts  
22 described in the complaint are uncured deceptive acts and Plaintiff is entitled to  
23 bring this action under Indiana Code § 24-5-0.5-4.  
24

25 144. The NCAA's willful, deceptive acts have damaged and continue to  
26 damage Class Members. Plaintiff seeks an order enjoining the NCAA from  
27  
28

1 continuing its illegal activities, and an award of civil penalties against the NCAA  
2 under § 24-5-0.5-4, to include trebled damages, costs, and attorneys' fees.

### 3 4 **VII. DEMAND FOR JUDGMENT**

5 WHEREFORE, Plaintiff demands judgment as follows:

6 A. The Court determine that this action may be maintained as a class  
7 action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure with  
8 respect to Plaintiff's claims for declaratory and injunctive relief, and Rule  
9 23(b)(3) of the Federal Rules of Civil Procedure with respect to the claims for  
10 damages and equitable relief, and declaring Plaintiff as representative of the Class  
11 and his counsel as counsel for the Class;  
12

13 B. The conduct alleged herein be declared, adjudged, and decreed to be  
14 unlawful;  
15

16 C. Plaintiff and the Class be granted an award of damages in such  
17 amount to be determined at trial, with trebling under Counts I, II, and VIII, and  
18 statutory penalties under Count VIII;  
19

20 D. Plaintiff and the Class be granted an award of punitive damages in an  
21 amount to be determined at trial;  
22

23 E. Defendants be enjoined from continuing the illegal activities alleged  
24 herein;  
25

1 F. Plaintiff and the Class recover their costs of suit, including  
2 reasonable attorneys' fees and expenses as provided by law;

3 G. Plaintiff and the Class be awarded all pre- and post-judgment interest  
4 permitted by law; and

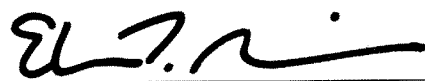
5 H. Plaintiff and the Class be granted such other, further, and different  
6 relief as the nature of the case may require or as may be determined to be just,  
7 equitable, and proper by this Court.  
8

9  
10 **DEMAND FOR JURY TRIAL**  
11

12 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial  
13 by jury on all issues so triable.  
14

15 RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of May, 2008.  
16

17 **HAGENS BERMAN SOBOL SHAPIRO LLP**  
18

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