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Attorneys for RGIS, LLC (erroneously
 sued as RGIS Inventory Specialists, Inc.)

14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**

17 TRISHA WREN and CYNTHIA PIPER, et al.,
 individually and behalf of others similarly
 18 situated,

19 Plaintiffs,

20 v.

21 RGIS Inventory Specialists, LLC, RGIS, LLC,
 22 Does 1-25 Inclusive,

23 Defendants.

Case Nos.: 3:06-cv-05778 JCS
 3:07-cv-00032 JCS

CLASS AND COLLECTIVE ACTION

**STIPULATION AND [~~PROPOSED~~]
 ORDER REGARDING FURTHER
 MAILING OF NOTICE OF PROPOSED
 CLASS SETTLEMENT**

Honorable Joseph C. Spero

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1 STIPULATION

2 WHEREAS the parties have submitted a proposed class settlement in the above-captioned
3 matter;

4 WHEREAS the Court granted preliminary approval of the proposed class settlement on
5 September 16, 2010;

6 WHEREAS Rust Consulting, Inc., the claims administrator herein, mailed notice to 62,594
7 potential settlement class members on October 15, 2010 based on a mailing list containing the class
8 members' names, last known addresses, and Social Security numbers which were provided to Rust
9 Consulting by defendant;

10 WHEREAS defendant subsequently discovered that the class list was incomplete, and that
11 there are approximately 2,500 additional class members who should have received notice of the
12 proposed class settlement;

13 WHEREAS plaintiffs' experts Dr. Drogin and Dr. Kakigi have been able to calculate
14 estimated awards for 737 of these potential settlement class members and have identified over 250
15 potential settlement class members who are not eligible to receive an award under the settlement,
16 but have been unable to perform an individualized estimate of the awards of the remaining
17 potential class members given the available data and the time constraints of the final approval
18 schedule herein;

19 WHEREAS even if there were sufficient data and time available to provide further
20 calculations of estimated individual awards, plaintiffs' experts would be required to re-calculate
21 awards for the entire class of over 62,000 persons, and the cost of "running the model" on each
22 occasion exceeds \$20,000;

23 WHEREAS Dr. Drogin and Dr. Kakigi have calculated an estimated average award (i.e.,
24 \$205) that participating settlement class members will receive so as to provide the additional class
25 members referenced above with a reasonable estimate of their potential recovery under the
26 proposed class settlement;

27 WHEREAS the parties have agreed to provide notice of the settlement of class action in a form that
28 is identical to the notice previously approved by the Court, except that said notice provides an

1 estimated average award in lieu of individualized estimates to the potential settlement class
2 members for whom the calculation of individualized estimates is not feasible at this time;

3 WHEREAS the proposed revised notice is attached hereto as Exhibit A;

4 WHEREAS notice of class action settlement providing potential settlement class members
5 an average settlement award in lieu of an individualized estimate has been deemed to be legally
6 sufficient under applicable precedents. *See, e.g., Marshall v. Holiday Magic, Inc.*, 550 F.2d 1173,
7 1177-78 (9th Cir. 1977), *abrogated on other grounds by, Epstein v. MCA, Inc.*, 126 F.3d 1235 (9th
8 Cir. 1997) (notice need not “specify [class members’] potential recovery” since it is “a matter of
9 conjecture ... how many class members would opt out or submit claims. *The aggregate amount*
10 *available to all claimants was specified and the formula for determining one’s recovery was given.*
11 *Nothing more specific is needed.*”) (emphasis added); *Grunin v. Int’l House of Pancakes*, 513 F.2d
12 114, 122 (8th Cir. 1975) (“the notice may consist of a very general description of the proposed
13 settlement, including a summary of the monetary or other benefits that the class would receive and
14 an estimation of attorneys’ fees and other expenses.”); Alba Conte & Herbert B. Newberg,
15 Newberg on Class Actions § 8:32, at 265 (4th ed. 2002) (“[i]t is unnecessary for the settlement
16 distribution formula to specify precisely the amount that each individual class member may expect
17 to recover.”);

18 WHEREAS the proposed alternative notice attached as Exhibit A describes the formula that
19 will be used to calculate individual awards in section 8 of the notice (“What can I get from the
20 settlement?”);

21 WHEREAS the proposed alternative notice attached as Exhibit A provides the aggregate
22 amount available to the claimants in the proposed settlement;

23 WHEREAS the precise settlement amount that potential settlement class members can
24 expect to receive on an individual basis will be determined if the settlement agreement is approved;

25 IT IS HEREBY STIPULATED by and between the parties through their counsel of record
26 that the “Official Court Notice of Settlement of Class Action” attached hereto as Exhibit A will be
27 sent to potential settlement class members for whom individualized estimates of recovery cannot
28 be determined at this time as soon as possible following the above-entitled Court’s approval of this

1 “Stipulation and Proposed Order Re Further Mailing of Notice of Proposed Class Settlement”:

2 IT IS SO STIPULATED.

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4 Dated: January 13, 2011

SCHNEIDER WALLACE
COTTRELL BRAYTON KONECKY LLP

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By: /s/
GUY B. WALLACE
Attorneys for Plaintiffs

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9 Dated: January 13, 2011

AKIN GUMP STRAUSS HAUER & FELD, LLP

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By: /s/
JOEL M. COHN
Attorneys for Defendants

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I, Guy B. Wallace, am the ECF User whose ID and password are being used to file this Stipulation and [proposed] Order Regarding Further Mailing of Notice of Proposed Class Settlement by Parties and Counsel. In compliance with General Order 45, X.B., I attest that Joel M. Cohn has concurred in this filing.

ORDER

The Court, having reviewed the parties’ stipulation, and good cause appearing, hereby approves the revised notice attached hereto as Exhibit A to be sent to potential settlement class members for whom individual estimates cannot be determined at this point in time. The attached notice shall be sent to the potential class members at issue as soon as possible, and by no later than January 21, 2011.

IT IS SO ORDERED.

Dated: 1/14/11

