

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA,
By JOSH SHAPIRO, ATTORNEY GENERAL,**

CIVIL DIVISION

2:22-cv-1551

Plaintiff,

v.

**FLUENT, LLC d/b/a CAC; AMERICAN
PRIZE CENTER, LLC; DELIVER
TECHNOLOGY, LLC; REWARDZONE USA,
LLC; and SAMPLES & SAVINGS USA, LLC,**

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Defendants.

Filed on Behalf of Plaintiff:

COMMONWEALTH OF
PENNSYLVANIA, JOSH SHAPIRO
ATTORNEY GENERAL

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UNITED STATES DISTRICT COURT
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By JOSH SHAPIRO, ATTORNEY GENERAL,

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AND NOW, comes the Commonwealth of Pennsylvania, by Josh Shapiro, Attorney General (“Commonwealth”), and brings this action against Fluent LLC d/b/a CAC, American Prize Center, LLC, Deliver Technology, LLC, RewardZone USA, LLC and Samples & Savings USA, LLC (collectively “Defendants” or “Fluent”) and alleges the following:

INTRODUCTION

1. The Commonwealth brings this action pursuant to the *Telemarketing and Consumer Fraud and Abuse Prevention Act* (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and Pennsylvania’s *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-1, *et seq.* (Consumer Protection Law), to obtain permanent injunctive relief, civil penalties and other equitable relief for Defendants’ acts and practices in violation of Pennsylvania’s *Telemarketer Registration Act*, 73 P.S. § 2241, *et seq.* (“TRA”), the Federal Trade Commission’s Trade

Regulation Rule entitled “*Telemarketing Sales Rule*” (“TSR”), 16 C.F.R. Part 310, as well as the Consumer Protection Law.

2. Section 201-4 of the Consumer Protection Law authorizes the Attorney General to bring an action in the name of the Commonwealth of Pennsylvania to restrain by temporary and/or permanent injunction unfair methods of competition or unfair or deceptive acts or practices in the conduct of any trade or commerce declared unlawful by Section 201-3 of the Consumer Protection Law. 73 P.S. §§ 201-3 and 201-4.

3. Further, whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule under Section 6102 of Telemarketing Act, the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such telemarketing, to enforce compliance with such rule of the Commission, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate. 15 U.S.C. § 6103(a).

4. At all times relevant hereto, and as alleged in more fully herein, Defendants engaged in trade and commerce by advertising and marketing promotional offers and opportunities to Pennsylvania consumers, such as gift cards and free samples, in order to acquire consumer data for purposes of lead generation.

5. In connection with these business operations, the Commonwealth has reason to believe that Defendants have used methods, acts or practices declared unlawful by the TSR, the TRA and the Consumer Protection Law.

6. The unfair methods, acts and practices complained of herein have been willfully used by Defendants.

7. The Commonwealth believes that citizens of the Commonwealth are suffering and will continue to suffer harm unless the acts and practices complained of herein are permanently enjoined.

JURISDICTION AND VENUE

8. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1355, as well as 15 U.S.C. §§ 6103(a).

9. This Court has supplemental jurisdiction over the remaining claims under 28 U.S.C. § 1367.

10. Venue is proper in this district because pursuant to 15 U.S.C. § 6103(e) and 28 U.S.C. §§ 1391(b)(2) and 1395(a).

PARTIES

11. Plaintiff is the Commonwealth of Pennsylvania, Office of Attorney General, with offices located at 1251 Waterfront Place, Mezzanine Level, Pittsburgh, Pennsylvania 15222; and 15th Floor, Strawberry Square, Harrisburg, Pennsylvania 17120.

12. Defendant Fluent, LLC is a Delaware limited liability company with a principal place of business located at 300 Vesey Street, 9th Floor New York, New York 10282.

13. Defendant Fluent, LLC does business as CAC, an Assumed Name, registered with the New York State Department of State, Division of Corporations.

14. Defendant American Prize Center, LLC is a New York limited liability company with a principal place of business located at 300 Vesey Street, 9th Floor New York, New York 10282 and is a subsidiary of Fluent, LLC.

15. Defendant Deliver Technology, LLC is a Delaware limited liability company with a principal place of business located at 300 Vesey Street, 9th Floor New York, New York 10282.

16. Defendant RewardZone USA, LLC is a New York limited liability company with a principal place of business located at 300 Vesey Street, 9th Floor New York, New York 10282 and is a subsidiary of Fluent, LLC.

17. Defendant Samples & Savings USA, LLC is a Delaware limited liability company with a principal place of business located at 300 Vesey Street, 9th Floor New York, New York 10282 and is a subsidiary of Fluent, LLC.

18. Defendants have operated as a common enterprise while engaging in the deceptive, unfair, and unlawful acts and practices and other violations of law alleged below. Defendants have conducted the business practices described below through an interrelated network of companies that have common ownership, common officers, common office locations and use common services. Because Defendants have operated as a common enterprise, each of them is liable for the acts and practices alleged below.

DEFENDANTS' BUSINESS PRACTICES

19. Defendants advertise, offer for sale and sell lead generating services to third party businesses and organizations, which Defendants refer to as their "Marketing Partners."

20. Lead generation involves collecting personal information, including telephone numbers, from consumers and then selling that information to third parties who want to use the leads to generate business.

21. Many of Defendants' Marketing Partners are companies that advertise and sell subscription services, streaming services, insurance, utility services and on-line education programs.

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