

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**FEDERAL TRADE COMMISSION and  
JOHN J. HOFFMAN, Acting Attorney General  
of the State of New Jersey, and STEVE C.  
LEE, Acting Director of the New Jersey  
Division of Consumer Affairs,**

Plaintiffs,

v.

**EQUILIV INVESTMENTS, a Limited Liability  
Company and RYAN RAMMINGER, an  
individual,**

Defendants.

Case No. \_\_\_\_\_

**COMPLAINT FOR PERMANENT  
INJUNCTION AND OTHER  
EQUITABLE AND MONETARY  
RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC”), located at 600 Pennsylvania Avenue, NW Washington, DC, and John J. Hoffman, Acting Attorney General of the State of New Jersey (“Attorney General”), and Steve C. Lee, Acting Director of the New Jersey Division of Consumer Affairs (“Director”) (collectively, “State” or “State of New Jersey”), located at 124 Halsey St., Newark, New Jersey, for their Complaint against defendants Equiliv Investments LLC and Ryan Ramminger, with a principal place of business located at 7955 Tyler Way, West Chester, Ohio 45069, allege:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain preliminary and permanent injunctive relief against Defendants to prevent them from engaging in unfair and deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and to obtain other equitable relief,

including rescission, restitution, and disgorgement, as is necessary to redress injury to consumers and the public interest resulting from Defendants' violation of the FTC Act.

2. The State of New Jersey, brings this action under the New Jersey Consumer Fraud Act ("CFA"), N.J.S.A. 56:8-1 et seq., to obtain injunctive relief against Defendants to prevent them from engaging in misrepresentations and deceptive and/or unconscionable commercial practices in violation of the CFA and as is necessary to redress injury to consumers resulting from Defendants' violations of law, disgorge ill-gotten monies and to seek civil penalties, pursuant to N.J.S.A. 56:8-8, 56:8-11, 56:8-13 and 56:8-19.

### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

4. This Court has supplemental jurisdiction over the plaintiff State of New Jersey's claims under 28 U.S.C. § 1367.

5. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).

### **PLAINTIFFS**

6. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC is authorized to initiate federal district court proceedings by its own attorneys to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b).

7. The Attorney General is charged with the responsibility of enforcing the CFA. The Director is charged with the responsibility of administering the CFA on behalf of the Attorney General. The State of New Jersey is authorized to initiate proceedings to enjoin violations of the CFA and to seek injunctive relief, restitution, civil penalties, and other equitable relief this Court deems appropriate. N.J.S.A. 56:8-8, 56:8-11, 56:8-13 and 56:8-19.

### **DEFENDANTS**

8. Defendant **Equiliv Investments** (hereinafter, “**Equiliv**” or “**Prized**”) is a limited liability company registered in Ohio that maintains offices at West Chester, Ohio. Equiliv transacts or has transacted business in this District.

9. Defendant **Ryan Ramminger**, (hereinafter, “**Ramminger**”) is, or has been, an officer and/or director of Prized. Individually, or in concert with others, Ramminger has formulated, directed, controlled, or participated in the acts and practices alleged in this complaint. Defendant Ramminger resides, or has resided, in Ohio and transacts, or has transacted, business in this District.

### **COMMERCE**

10. At all times relevant to this complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### **DEFENDANTS’ BUSINESS PRACTICES**

11. Since at least February 2014, Defendants have marketed a mobile device application (“app”) known as Prized (“Prized App”), which purports to give consumers points redeemable for prizes in exchange for completing tasks, such as downloading affiliated apps, playing video games embedded with advertisements, or taking online surveys. Unbeknownst to

consumers, however, the Prized App contained hidden malicious software code (“malware”), which Defendants have used to take control of consumers’ mobile devices to generate virtual currencies for themselves.

#### Background on Malware and Virtual Currencies

12. Malicious actors are able to infect consumers’ computers or mobile devices with malware in a variety of manners, such as sending an e-mail attachment with infected software or hiding malicious code in an app.

13. Once downloaded, malware interferes with consumers’ use of electronic devices, and can significantly degrade their performance, including by draining the battery life and data plans of consumers’ mobile devices.

14. Malware that is programmed to take control of the computing resources of infected devices can direct these devices to engage in a variety of activities, such as generating virtual currencies without consumers’ knowledge.

15. Decentralized virtual currencies, or cryptocurrencies, are alternatives to traditional paper money (such as the dollar). Like paper money, they are capable of being used to purchase goods or services by merchants that accept them as payment. Currently, there are hundreds of different virtual currencies in circulation, such as Bitcoin, Litecoin, Dogecoin, and Quarkcoin.

16. There is no central authority (like a central bank) behind these virtual currencies and many are generated through a process referred to as “mining.”

17. In the mining process, a computer or other electronic device connects to a peer-to-peer network to compete with other devices in solving a complex mathematical equation, referred to as a “block.” If the user’s computer is successful in solving the block, the network will award that consumer a certain amount of virtual currency.

18. In order to mine using the computing resources of multiple computers and mobile devices, users can combine and group their computing power in a process commonly referred to as “pool mining.”

19. Defendants in this case infected consumers’ mobile devices by hiding malware in their Prized App. The malware pooled the computing resources of numerous consumers’ mobile devices to mine for virtual currencies for Defendants’ benefit without those consumers’ knowledge.

#### Defendants’ Marketing of the Prized App

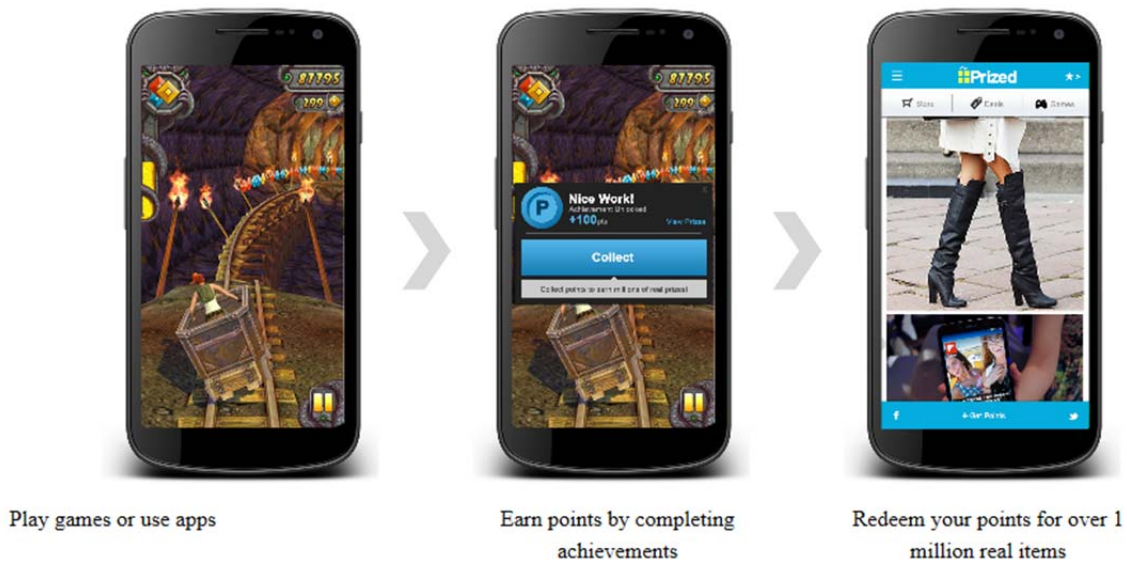
20. Consumers have been able to download the Prized App from the Google Play and Amazon app stores as well as a variety of additional third party websites. Defendants also have offered a link on their website located at [www.prized.mobi](http://www.prized.mobi) (“Prized Website”) for consumers to download the Prized App through the Google Play app store.

21. In order to entice consumers into downloading their malware, the Prized Website advertises that the Prized App will offer consumers points for playing games or for downloading other affiliated apps. Those points are purportedly redeemable for “prizes” such as clothes, accessories, and gift cards.

22. A screenshot of Defendants' description of how the Prized App works appears

below:

## How It Works



23. In many instances, Defendants have not actually provided consumers with the promised points.

24. Furthermore, upon downloading the Prized App, consumers also unknowingly have downloaded hidden malware that has taken control of the computing resources of consumers' mobile devices to mine for virtual currencies, such as Dogecoin, Litecoin, and Quarkcoin.

25. Consumers have suffered injuries from Defendants' Prized App, including having the computing resources of their mobile devices overtaken, and spending time, effort, or money removing the malware. Defendants' malware also likely drained consumers' data plans and batteries and caused their mobile devices to charge slowly.

26. Nowhere on the Prized Website, the Prized Google Play site, or in the Prized App itself did Defendants disclose to users the existence of malware in their app capable of turning users' mobile devices into virtual currency miners.

27. Further, in their terms of use, Defendants explicitly represented that "any computer software code and/or advertising tags loaded on an end users' device by Prized are and will be free of malware, spyware, time bombs, and viruses."

### **VIOLATIONS OF THE FTC ACT AND THE CFA**

28. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or unfair practices in or affecting commerce."

29. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or unfair practices prohibited by Section 5(a) of the FTC Act.

30. Acts or practices are unfair under Section 5 of the FTC Act if they cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

31. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing [ ] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby...

### **COUNT I**

**Misrepresentations that the Prized App  
Would Not Infect User's Devices with Malware**  
(By the FTC and State of New Jersey)

32. Plaintiffs incorporate by reference all the foregoing paragraphs.

33. In numerous instances, in connection with the advertising, marketing, and promotion of their Prized App, Defendants have represented expressly or by implication, that the Prized App will not infect users' devices with malware.

34. In truth and in fact, in numerous instances, Defendants' Prized App contained malware.

35. Therefore, the representation set forth in Paragraph 33 was and is false and misleading, and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

36. The foregoing practices are also misrepresentations, false promises, and/or omissions of material fact and constitute multiple violations of N.J.S.A. 56:8-2.

**COUNT II**  
**Infesting and Taking Control of Consumers' Devices with Malware**  
**(By the FTC and State of New Jersey)**

37. Plaintiffs incorporate by reference all the foregoing paragraphs.

38. In numerous instances, through the use of the Prized App, Defendants have infected and taken control of consumers' mobile devices with malware.

39. Defendants' actions have caused or are likely to cause substantial injury to consumers that consumers themselves cannot reasonably avoid and that is not outweighed by the countervailing benefits to consumers or competition.

40. Therefore, Defendants' practices, as described in Paragraph 38 were and are unfair in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

41. The foregoing practices are also unconscionable commercial practices in violation of N.J.S.A. 56:8-2. Each instance of Defendants infecting and/or taking control of consumers'



mobile devices with malware constitutes a separate unconscionable commercial practice in violation of the CFA.

### **CONSUMER INJURY**

42. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

### **THE COURT'S POWER TO GRANT RELIEF**

43. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

44. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow the State of New Jersey to enforce the CFA against Defendants in this Court and to grant such relief as provided under the CFA, including injunctive relief, consumer restitution, civil penalties, reimbursement of attorneys' fees and costs and such other relief to which the State may be entitled.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiffs FTC and the State of New Jersey, pursuant to Sections 13(b) of the FTC Act, 15 U.S.C. §§ 53(b), the CFA, N.J.S.A. 56:8-1 et seq., and the Court's own equitable powers, requests that the Court:

A. Enter a permanent injunction to prevent future violations of the FTC Act and CFA by Defendants;

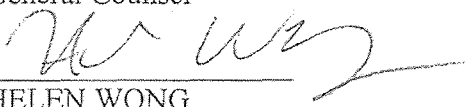
B. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and CFA, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, civil penalties and the disgorgement of ill-gotten monies; and

C. Award Plaintiffs the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: June 24, 2015


Respectfully submitted,

JONATHAN E. NUECHTERLEIN  
General Counsel

  
HELEN WONG  
hwong@ftc.gov  
Telephone: 202-326-3779  
Federal Trade Commission  
600 Pennsylvania Ave. N.W.  
Mail Stop CC-9424  
Washington, D.C. 20580  
Facsimile: 202-326-3768

Attorney for Plaintiff  
FEDERAL TRADE COMMISSION

JOHN J. HOFFMAN  
Acting Attorney General

  
GLENN T. GRAHAM  
glenn.graham@dol.lps.state.nj.us  
ELLIOTT M. SIEBERS  
elliott.siebers@dol.lps.state.nj.us  
Deputy Attorneys General  
Telephone: 973-648-2500  
State of New Jersey  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
Newark, New Jersey 07101  
Facsimile: 973-648-4887

Attorney for Plaintiffs  
JOHN J. HOFFMAN, Acting Attorney  
General of the State of New Jersey  
STEVE C. LEE, Acting Director of the New  
Jersey Division of Consumer Affairs