

DOJ Asks Court to Ban Company From Delaware For Defrauding Businesses

The Department of Justice's Consumer Protect Unit has filed a complaint in the Court of Chancery to prohibit a Michigan-based company from conducting business in Delaware. DOJ claims the principals of the company, The Mandatory Poster Agency, Inc. d/b/a Delaware Council for Corporations, are the same three men who, under the name of a different company, entered into a cease and desist agreement with the state earlier this year for selling corporate forms to businesses under misleading materials.

Beginning in 2013, Corporate Records Service (a/k/a Mandatory Poster Agency), led by defendants Thomas Fata, Steven Fata, and Joseph Fata, sent deceptive and misleading solicitations to Delaware businesses. The scam involved sending a mailing that looks like an official Delaware government document and misrepresenting Delaware corporate law requirements so that unsuspecting, small Delaware-registered businesses would pay the company \$125 to generate unnecessary corporate forms. Corporate Records Service agreed in January 2016 to a \$200,000 penalty, of which \$175,000 was suspended, provided the defendants didn't violate the order for a period of five years. The agreement also called for full restitution to the Delaware businesses that fell victim to the scam. In total, 169 Delaware-incorporated businesses paid \$21,125 to Corporate Records Service and were paid back in May of this year.

In June 2016, DOJ learned of a similar mailing from a company calling itself the "Delaware Council For Corporations" soliciting Delaware corporations with deceptive mailings that offer unnecessary corporate record preparation services for \$125, misrepresent Delaware corporate law records

requirements, and cause likelihood of confusion or of misunderstanding as to the affiliation or approval of the company and its services by the State of Delaware. Based on an investigation, DOJ believes the Delaware Council For Corporations is also run by the Fata brothers.

“This is a company our attorneys and investigators believe got caught selling forms to Delaware businesses under false pretenses, agreed to stop, and then did it again, so we’re asking the court to prohibit them from doing business here again and impose an appropriate financial penalty,” Attorney General Matt Denn said.

The complaint alleges violations of the 2016 cease and desist order, as well as the Consumer Fraud Act and Uniform Deceptive Trade Practices Act. Material violations of the 2016 order enable DOJ to recover the \$175,000 in civil penalties suspended under the 2016 Order. DOJ told the court in its recent filing those same violations should also qualify as “willful violations” with enhanced civil penalties of \$25,000 per violation.

Deputy Attorneys General Christian Wright and Jill Remming are handling the case.