

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



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APPEAL AND REQUEST FOR HEARING

Benjamin Wagner _____ (name),

Counsel _____ (title/affiliation to registrant) of

Prizeo US, LLC _____ (organization),

requests a hearing of the Attorney General's cease and desist order pursuant to Government Code section 12591.1 and California Code of Regulations, title 11, section 999.6. Appellant's address (required):

Prizeo US, LLC

11601 Wilshire Blvd. Ste. 210

Los Angeles, CA 90025

310-309-5710 _____ telephone number (required).

Statement for basis of appeal (required): Please see attached

Check this box if you are attaching additional information or documents.

12/17/2019

Date

Benjamin Wagner

Signature

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Attorneys for Respondent Prizeo US, LLC

**BEFORE THE
ATTORNEY GENERAL OF CALIFORNIA**

In the Matter of the Order to Cease and Desist
Against:

Prizeo US LLC

Respondent.

CASE NO. FP0003365/11.22.2019 Order

**PRIZEO US LLC'S NOTICE OF APPEAL
AND REQUEST FOR HEARING**

APPEAL AND REQUEST FOR HEARING

Pursuant to California Code of Regulations, Title 11, Section 999.6 et. seq, Respondent Prizeo US LLC ("Prizeo") hereby submits this Appeal to the Attorney General's Order to Cease and Desist, Reg. No. FP0003365, dated November 22, 2019, and requests that the Order be rescinded in its entirety. Pursuant to California Government Code Section 12591.1(e), Prizeo requests a full evidentiary hearing after completion of discovery.

Prizeo states that its address is 11601 Wilshire Blvd. Ste. 210, Los Angeles, California 90025. The "person appealing" the Order, Schuyler Hansen, can be reached by telephone at 310-309-5710.

The Cease and Desist Order contains no discussion of the basis of the Attorney General's claims nor the authority on which he relies. Thus, Prizeo expressly reserves the right to fully present its case and to dispute and rebut any and all assertions that the Attorney General may make, whether now or in the future.

BASIS OF APPEAL

1. Founded in 2013, Prizeo is an online platform via which charitable organizations conduct their own sweepstakes-for-good featuring property and/or experiences.

2. Prizeo is committed to the integrity of the charitable process. The organizations which use its platform are reputable national charities such as American Cancer Society, Planned Parenthood, United Way Worldwide, and Special Olympics. To date, charitable organizations have run numerous sweepstakes on the Prizeo platform, and Prizeo enjoys a strong reputation.

3. Prizeo believes it does not operate as a “commercial fundraiser for charitable purposes” as defined by California Government Code § 12599. A “commercial fundraiser for charitable purposes” is defined as an entity who for compensation solicits funds for charitable purposes, or as a result of a solicitation, receives or controls the funds. Cal. Gov't Code § 12599. Prizeo is an online platform that enables charities to solicit funds, but does no such solicitation itself. Each charity using Prizeo’s platform runs its own sweepstakes: the charities determine the terms, deliver the prize items, and control their own programs.

4. The purpose of Uniform Supervision of Trustees for Charitable Purposes Act (“the Act”) is to “to protect the public from fraud, to prevent the misuse of charitable assets and other wrongdoing, and to provide transparency for donors to make informed decisions when giving.” Attorney General’s Guide for Online Charitable Giving, 10 (July 2019), <https://oag.ca.gov/sites/all/files/agweb/pdfs/charities/publications/guide-online-charitable-giving.pdf>. As an internet platform, Prizeo does not initiate fundraising campaigns itself. Funds temporarily delayed from delivery to a charity using the platform are to help protect consumers against potential default by the charity until it delivers the prize(s) it has promised to the public. The Act was simply not intended to apply to internet platforms like Prizeo.

5. The California Department of Justice is alone in interpreting § 12599 to apply broadly to platforms providing technology tools to charities. In 2018, the California legislature considered and failed to enact Assembly Bill 2556 (“AB 2556”), a bill to amend California statutes to apply to platforms like Prizeo. Such legislation would be unnecessary if § 12599 *already* applied to internet platforms like Prizeo. In the absence of legislative action, § 12599 should not be interpreted to cover internet platforms providing technology tools to charities to conduct their own fundraising campaigns.

CONCLUSION

6. The Cease and Desist Order should be vacated in its entirety. Prizeo believes it is not a commercial fundraiser under § 12599, has complied with California law, and that it is not required to register with Registry of Charitable Trusts.

WHEREFORE, Respondent Prizeo prays:

- a. For a hearing to be held, after discovery, regarding the Attorney General's factual allegations and conclusions of law;
- b. For a prehearing conference, at which time Prizeo may request an expedited hearing and may make additional pre-hearing motions to ensure a full, fair, and complete hearing and record.
- c. That the Cease and Desist Order be vacated in full or, to the extent the office concludes that any portion of the Order should remain in effect, the hearing office vacate the penalties set forth in the Order;
- d. That Prizeo be granted its costs associated with this action; and
- e. For such other, further, and different relief as may be deemed just and proper.

Dated: December 18, 2019

BENJAMIN WAGNER, SBN 163581
MATTHEW BALL, SBN 327028
GIBSON, DUNN & CRUTCHER LLC

By: /s/ Benjamin Wagner
Benjamin Wagner, SBN 163581
Matthew Ball, SBN 327028

Attorneys for Respondent
Prizeo US LLC

PROOF OF SERVICE

I, Colleen Block, declare as follows:

I am employed in the County of Santa Clara, State of California, I am over the age of eighteen years and am not a party to this action; my business address is 1881 Page Mill Road, Palo Alto, in said County and State. On December 18, I served the following document(s):

PRIZEO US LLC'S NOTICE OF APPEAL AND REQUEST FOR HEARING

on the parties stated below, by the following means of service:

Charitable Trusts Section
California Department of Justice
1300 I Street
PO Box 903447
Sacramento, CA 94203-4470

James Toma, Supervising Deputy
Attorney General
Charitable Trusts Section
California Department of Justice
Office of the Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

X **BY UNITED STATES MAIL.** I placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY OVERNIGHT DELIVERY. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed on the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

BY PERSONAL SERVICE: I placed a true copy in a sealed envelope addressed to each person[s] named at the address[es] shown and giving same to a messenger for personal delivery to the Agent for Service of Process.

Executed on December 18, 2019

Colleen Block