

STATE OF INDIANA  
IN THE MARION COUNTY CIRCUIT/SUPERIOR COURT

CAUSE NO. \_\_\_\_\_

STATE OF INDIANA,

Plaintiff,

v.

ZACHARY PUZNAK, individually  
and doing business as ZENGER LLC,

and

ZENGER LLC,

Defendants.

**COMPLAINT  
FOR INJUNCTION, CIVIL  
PENALTIES, AND COSTS**

**I. INTRODUCTION**

1. The State of Indiana, by Attorney General Curtis T. Hill, Jr. and Deputy Attorney General Mark M. Snodgrass, commences this civil action under the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*, and the Indiana False Claims Act, Ind. Code § 5-11-5.5-1 *et seq.*, for injunctive relief, civil penalties, costs, and other relief.
2. The Defendants, Zachary Puznak and Zenger LLC, undertook a scheme to fraudulently attempt to obtain hundreds of millions of dollars from the State of Indiana during the COVID-19 Pandemic. In April 2020, while states were attempting to obtain sufficient supplies of personal protective equipment to outfit first responders, health-care workers, and essential businesses, Puznak and Zenger LLC contacted the State of Indiana and offered to sell it millions

of in-demand N95 respirator masks on behalf of 3M. Neither Puznak nor Zenger LLC had any affiliation with 3M. Puznak and Zenger LLC appear to have had no intention or ability to supply the N95 masks as represented. Puznak and Zenger LLC's solicitation appears to have been a scheme to quickly obtain a large monetary payment from the State of Indiana without delivering the product as represented. Puznak and Zenger LLC's misrepresentations and actions are unfair, abusive, and deceptive, and constitute violations of Indiana's Deceptive Consumer Sales Act and Indiana's False Claims Act.

## **II. PARTIES**

3. The plaintiff, the State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief under Ind. Code § 24-5-0.5-4(c) and Ind. Code § 5-11-5.5-3(b).
4. The defendant, Zachary Puznak, is an individual with a principal place of business located at 401 Ryland Street, Suite 200-A, Reno, Nevada 89502.
5. The defendant, Zenger LLC, operating under the assumed business name ZeroAqua, is a Nevada limited liability company with a principal place of business located at 401 Ryland Street, Suite 200-A, Reno, Nevada 89502.
6. Zachary Puznak and Zenger LLC are subject to the jurisdiction of an Indiana court pursuant to Ind. Trial R. 4.4(A) because Zachary Puznak and Zenger LLC attempted to transact business in Indiana, purposely directed business activities into Indiana, and engaged in unlawful practices in Indiana.

7. Venue is proper in this Court pursuant to Ind. Trial R. 75(A)(10), as this case is brought by the State of Indiana, a governmental entity whose principal offices are located in Marion County, Indiana, and Zachary Puznak and Zenger LLC are non-residents without a principal place of business in the state. Additionally, the solicitations referenced in this Complaint were directed by Zachary Puznak and Zenger LLC to individuals located in Marion County.
8. Zachary Puznak controlled and directed the affairs of Zenger LLC at the time of the solicitations identified in this Complaint and was active in its management and operation, including its advertising, sales, and other practices. Zachary Puznak personally made the representations identified in this Complaint on behalf of Zenger LLC.

### **III. FACTS**

9. On March 6, 2020, Governor Eric Holcomb issued Executive Order 20-02 declaring a public disaster health emergency in the State of Indiana in response to the spread of COVID-19.
10. As a result of the spread of COVID-19, states were desperate to obtain personal protective equipment (“PPE”) for front-line health care workers treating COVID-19 patients and for essential businesses. N95 masks, necessary for the safety of health care workers, and needed for certain businesses to resume business operations, were in especially short supply and in high demand.

11. On April 14, 2020, Zachary Puznak, on behalf of Zenger LLC, sent an email to both Luke Bosso, Chief of Staff of the Indiana Economic Development Corporation and Earl Goode, Chief of Staff to Governor Eric Holcomb, stating he had a “nice Easter gift for you and the State of Indiana.” Puznak proceeded to detail his offer to provide the State of Indiana with 3M N95 masks at \$2.82 per mask. Puznak also stated he had “been working to find procurement solutions with the State of Michigan, Connecticut, New York, and Massachusetts.”
12. The Indiana Economic Development Corporation (“IEDC”) is a quasi-government agency that includes a non-profit organization within its structure. IEDC has worked to obtain PPE and distribute it to Indiana businesses, free of charge, and to date has provided free PPE to thousands of Indiana businesses. IEDC has obtained monies from both state appropriations and the Coronavirus Aid, Relief and Economic Security (CARES) Act to fund its PPE distribution efforts.
13. On April 24, 2020, Puznak again emailed Mr. Bosso. In this email, Puznak offered to sell the State of Indiana “a minimum of 100 million 3M 1860’s [N95 masks] up to 5 billion total,” at a price of \$2.85 per mask, with the order to be delivered over a six week period. Puznak represented the funds from the State of Indiana would be transferred by him directly to 3M. Puznak stated the “offer is only good TODAY 4/23/2020.”

14. The price quoted by Puznak is double 3M's normal price for such N95 masks. Under the terms of Puznak's offer, the State of Indiana would have paid Puznak \$285 million to \$14.25 billion dollars, depending on the amount of N95 masks it purchased.
15. At the time of Puznak's email, 3M's annual global production of all 3M N95 masks was 1.1 billion, or 3.9 billion fewer than Puznak represented he could sell to the State of Indiana.
16. Puznak and Zenger LLC did not have the ability to supply 3M N95 masks to the State of Indiana as represented.
17. Mr. Bosso responded to Puznak's email and requested confirmation from 3M that the masks were real.
18. Puznak responded to Mr. Bosso and represented the offer for 3M N95 masks "was forwarded through two different 3M reps and the senior of the two has removed the junior rep from the chain to ensure the transaction is compliant with the federal margin/commission guidelines." Puznak also claimed he was working to have Mr. Bosso on a call with 3M reps.
19. Mr. Bosso repeatedly insisted on confirmation from 3M before further discussing the purchase of 3M N95 masks. In response, Puznak emailed Mr. Bosso and stated "I don't think anything is going to satisfy you at this point. And it's really quite sad. Especially for the people of Indiana. I've clearly explained how nobody has time or interest from the company in satisfying the paranoid irrationality of folks exhibiting this level of paranoia. I'm personally

insulted that you are essentially calling me a liar. And against the counsel of executives from 3M to just “forget it and move on” I have made every effort to deliver you the reality of the situation and much needed ppe but you refused to deal with reality and like a child insist on conforming to your wishes and your wishes alone. Best of luck managing the states circumstances. It appears you’re going to need it.”

20. Puznak’s Linked-In profile further represented his affiliation with 3M: “We have set up a specialized supply network direct with 3M to provide supplies exclusively for your specific supply and price needs.” By ordering from Puznak, “you are working directly with 3M to get a guaranteed product on transparent terms to deliver the units you need to support your front line workers today.”
21. Neither Puznak nor Zenger LLC had any affiliation with 3M, have any ability to sell 3M N95 masks on behalf of 3M, nor have had any communications with 3M regarding any offer to sell the State of Indiana any 3M N95 masks.
22. Mr. Bosso eventually confirmed directly with 3M that Puznak was not in any way affiliated with 3M and presented the information to Puznak.
23. In response, Puznak again represented he was affiliated with 3M: “The official 3M brokers I liaise with are relying on me to have a relationship with someone like [sic] built on a semblance of trust...I believe you have a friend who is low level nobody with no influence or knowledge who works at 3M providing you with uninformed opinions. It’s like asking the person peeling

potatoes on a nuclear sub how nuclear fission and rocket telemetry works- just because they work on a sub does not mean they are privy to the entire inner working of said vehicle.”

24. IEDC reported the matter to 3M and ceased communication with Puznak. IEDC did not purchase any 3M N95 masks from Puznak or Zenger LLC.
25. On April 30, 2020, 3M filed a Complaint in the U.S. District Court, South District of Indiana, against Puznak and Zenger LLC for their misrepresentations concerning their affiliation with 3M. 3M subsequently filed for a Temporary Restraining Order, which was granted on May 19, 2020, enjoining Puznak and Zenger LLC from representing they have any affiliation with 3M.
26. Puznak and Zenger LLC knowingly committed the actions described in this Complaint.

#### **IV. CAUSES OF ACTION**

##### **COUNT I:**

##### **VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT- MISREPRESENTING AFFILIATION WITH 3M**

27. The State realleges Paragraphs 1 through 26 of this Complaint.
28. Puznak and Zenger LLC regularly engaged in “consumer transactions” under Ind. Code § 24-5-0.5-2(a)(1).
29. Puznak and Zenger LLC are “suppliers” under Ind. Code § 24-5-0.5-2(a)(3).
30. Puznak and Zenger LLC committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by representing or implying they

had an affiliation with 3M and had 3M's approval for the solicitations Puznak and Zenger made to IEDC when no such affiliation or approval existed.

31. Puznak and Zenger LLC committed deceptive acts violating Ind. Code § 24-5-0.5-3(b)(7) by representing they had affiliation with 3M and had 3M's approval for the solicitations Puznak and Zenger made to IEDC when no such affiliation or approval existed.

COUNT II:

VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-  
MISREPRESENTING ABILITY TO SUPPLY N95 MASKS

32. The State realleges Paragraphs 1 through 31 of this Complaint.
33. Puznak and Zenger LLC committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by representing they could supply the State of Indiana with 100 million and up to 5 billion 3M N95 masks when they could not.

COUNT III:

VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-  
MISREPRESENTATIONS REGARDING SUPPLYING PPE DURING PUBLIC  
DISASTER HEALTH EMERGENCY

34. The State realleges Paragraphs 1 through 33 of this Complaint.
35. Puznak and Zenger LLC committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by making false representations regarding their affiliations and their abilities to provide PPE for purposes of combating COVID-19 during a declared public disaster health emergency.



COUNT IV:  
VIOLATIONS OF THE FALSE CLAIMS ACT- MAKING A FALSE STATEMENT  
TO OBTAIN PAYMENT

- 36. The State realleges Paragraphs 1 through 35 of this Complaint.
- 37. Puznak and Zenger LLC knowingly and intentionally used false statements to attempt to obtain payment of a false claim from the state violating Ind. Code § 5-11-5.5-2(b)(2) by making false representations regarding their affiliations with 3M and their abilities to provide PPE.

COUNT V:  
KNOWING VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

- 38. The State realleges Paragraphs 1 through 37 of this Complaint.
- 39. Puznak and Zenger LLC committed the deceptive acts asserted in this Complaint with knowledge of their deceptive acts.

COUNT VI:  
INCURABLE DECEPTIVE ACTS

- 40. The State realleges Paragraphs 1 through 39 of this Complaint.
- 41. The deceptive acts asserted in this Complaint are incurable deceptive acts and were committed by Puznak and Zenger LLC as part of a scheme, artifice, or device with intent to defraud or mislead.

**V. RELIEF**

- 42. The State requests the Court enter judgment against the Defendants, Zachary Puznak and Zenger LLC, for the relief described in Paragraphs 43 through 48 of this Complaint.

43. The State seeks a permanent injunction, under Ind. Code § 24-5-0.5-4(c)(1), enjoining Puznak and Zenger LLC, and the agents, representatives, employees, successors, and assigns of each, from:
  - 43.1. Selling or attempting to sell, any PPE, including N95 masks, to any purchaser in the State of Indiana without first notifying the Indiana Attorney General prior to each solicitation and sale. In the notification to the Attorney General, Puznak and/or Zenger LLC must provide the following information:
    - 43.1.1. persons or entities to whom it intends to solicit or sell PPE in Indiana;
    - 43.1.2. where Puznak and/or Zenger LLC acquired the PPE and the specific products and amounts of each it is trying to sell; and
    - 43.1.3. whether Puznak and/or Zenger LLC currently have possession of the PPE.
  - 43.2. Representing any affiliation with any company they do not have.
  - 43.3. Committing an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction, in violation of Ind. Code § 24-5-0.5-3(a).
44. The State seeks costs, under Ind. Code § 24-5-0.5-4(c)(4), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action.

45. The State seeks civil penalties, under Ind. Code § 5-11-5.5-2(b), on Count IV of this Complaint, for Puznak and Zenger LLC's violations of Ind. Code § 5-11-5.5-2(b)(2), payable to the State of Indiana in an amount to be determined at trial.
46. The State seeks civil penalties, under Ind. Code § 24-5-0.5-4(g), on Count V of this Complaint, for Puznak and Zenger LLC's knowing violations of Ind. Code § 24-5-0.5-3(a) and Ind. Code § 24-5-0.5-3(b)(7), payable to the State of Indiana in an amount to be determined at trial.
47. The State seeks civil penalties, under Ind. Code § 24-5-0.5-8, on Count VI of this Complaint, for Puznak and Zenger LLC's incurable deceptive acts, payable to the State of Indiana in an amount to be determined at trial.
48. The State seeks all other just and proper relief.

Respectfully submitted,

THE OFFICE OF THE INDIANA  
ATTORNEY GENERAL

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