

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
Pamela Jones Harbour
William E. Kovacic
J. Thomas Rosch

)	
In the Matter of)	
)	
DYNA-E INTERNATIONAL, INC.,)	
a corporation, and)	DOCKET NO. 9336
)	
GEORGE WHEELER,)	
individually and as an officer of)	
Dyna-E International, Inc.)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Dyna-E International, Inc., and George Wheeler, individually and as an officer of Dyna-E International, Inc. (“respondents”), have violated provisions of the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Dyna-E International, Inc. is a Nevada corporation with its principal office or place of business at 115-11 227th Street, Cambria Heights, New York 11411.
2. Respondent George Wheeler is president and director of Dyna-E International, Inc. Individually, or in concert with others, he formulates, directs, controls, or participates in the policies, acts, or practices of Dyna-E International, Inc., including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of Dyna-E International, Inc.
3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. Respondents advertise, label, offer for sale, sell, and/or distribute goods under the brand name Lightload to the public throughout the United States, including Lightload Towels. Respondents advertise and offer these goods for sale through the Internet sites www.lightloadtowels.com and www.ultralighttowels.com. Respondents also advertise, offer for sale, sell, or distribute these goods to retailers throughout the United States.

5. To induce consumers to purchase Lightload Towels, respondents disseminate, have disseminated, or have caused to be disseminated advertisements, including product labeling and other promotional materials, including but not limited to the attached Exhibit A. In these advertisements, respondents prominently state or have stated that Lightload Towels are “biodegradable.” Respondents do not define, describe, or qualify such biodegradability.

6. Approximately 91 percent of total municipal solid waste in the United States is disposed of in either landfills, incinerators, or recycling facilities. These disposal methods do not present conditions that would allow for Lightload Towels to completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

FALSE OR MISLEADING REPRESENTATIONS

7. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that Lightload Towels will completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time after customary disposal.

8. In truth and in fact, Lightload Towels will not completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time after customary disposal because a substantial majority of total municipal solid waste is disposed of by methods that do not present conditions that would allow for Lightload Towels to completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time.

9. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

UNSUBSTANTIATED REPRESENTATIONS

10. Through the means described in Paragraph 5, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 7 at the time the representation was made.

11. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 7 at the time the representation was made.

12. Therefore, the representation set forth in Paragraph 10 was, and is, false or misleading.

13. The acts and practices of respondents as alleged in this complaint constitute deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

NOTICE

Proceedings on the charges asserted against the respondents named in this complaint will be held before an Administrative Law Judge of the Federal Trade Commission, under Part 3 of the Commission's Rules of Practice, 16 C.F.R. Part 3, as amended by the Commission's Interim Final Rules, 74 Fed. Reg. 1804 (Jan. 13, 2009) and Final Rule, 74 Fed. Reg. 20205 (May 1, 2009). A copy of Part 3 of the Commission Rules is enclosed with this complaint, and the Rules are also accessible on the Commission Website.

Notice is hereby given that the twentieth day of January, 2010, at 10:00 a.m., is hereby fixed as the time, and the Federal Trade Commission offices, 600 Pennsylvania Avenue, N.W., Room 532, Washington, D.C. 20580, as the place when and where a hearing will be had before an Administrative Law Judge of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under the Federal Trade Commission Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this complaint.

You are notified that the opportunity is afforded you to file with the Federal Trade Commission an answer to this complaint on or before the 14th day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense, and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the Commission shall issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings of fact and conclusions of law under § 3.46 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings.

Failure to file an answer within the time above provided shall be deemed to constitute a waiver of your right to appear and contest the allegations of the complaint and to authorize the Commission, without further notice to you, to find the facts to be as alleged in the complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge will schedule an initial prehearing scheduling conference to be held not later than 10 days after the answer is filed by the last answering respondent in the complaint. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Room 532, Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, but in any event no later than five days after the answer is filed by the last answering respondent. Rule 3.31(b) obligates counsel for each party, within five days of receiving a respondent's answer, to make certain initial disclosures without awaiting a discovery request.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should conclude from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary or appropriate.

Moreover, the Commission has reason to believe that, if the facts are found as alleged in the complaint, it may be necessary and appropriate for the Commission to seek relief to redress injury to consumers, or other persons, partnerships or corporations, in the form of restitution for past, present, and future consumers and such other types of relief as are set forth in Section 19(b) of the Federal Trade Commission Act. The Commission will determine whether to apply to a court for such relief on the basis of the adjudicative proceedings in this matter and such other factors as are relevant to consider the necessity and appropriateness of such action.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
2. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
3. "Is degradable, biodegradable, or photodegradable" shall mean that the entire product or package will completely decompose into elements found in nature within a reasonably short period of time after customary disposal.

4. Unless otherwise specified, “respondents” shall mean Dyna-E International, Inc., a corporation, and its successors and assigns, and its officers, agents, representatives, and employees; and George Wheeler, individually and as an officer of Dyna-E International, Inc.

I.

IT IS ORDERED that respondents, directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package, in or affecting commerce, shall not represent, in any manner, expressly or by implication:

- A. That any such product or package is degradable, biodegradable, or photodegradable, unless the representation is true, not misleading, and, at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or
- B. That any such product or package offers any other environmental benefit, unless the representation is true, not misleading, and, at the time it is made, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondent Dyna-E International, Inc., and its successors and assigns, and respondent George Wheeler shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Commission for inspection and copying:

- A. All advertisements, labeling, packaging, and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. All acknowledgments of receipt of this order, obtained pursuant to Part III.

III.

IT IS FURTHER ORDERED that respondent Dyna-E International, Inc., and its successors and assigns, and respondent George Wheeler shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent Dyna-E International, Inc., and its successors and assigns, and respondent George Wheeler shall notify the Commission at least thirty (30) days prior to any change with regard to Dyna-E International, Inc. or any business entity that any respondent directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this order, including but not limited to formation of a new business entity; a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the business or corporate name or address. Provided, however, that, with respect to any proposed change about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

V.

IT IS FURTHER ORDERED that respondent George Wheeler, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of any change in his residence, of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include, as appropriate, respondent's new residential address and telephone number, new business address and telephone number, and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

VI.

IT IS FURTHER ORDERED that respondent Dyna-E International, Inc., and its successors and assigns, and respondent George Wheeler shall, within sixty (60) days after the

date of service of this order file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form in which they have complied with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, each respondent shall submit additional true and accurate written reports.

VII.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this complaint to be signed by the Secretary and its official seal to be affixed hereto, at Washington, D.C., this twentieth day of May, 2009.

By the Commission.

Donald S. Clark
Secretary