

Complaint

IN THE MATTER OF

DYNA-E INTERNATIONAL, INC.**AND****GEORGE WHEELER**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. D-9336; File No. 082 3187*
Complaint, May 20, 2009 - Decision, December 15, 2009

This consent order addresses Dyna-E International, Inc.'s marketing and sale of Lightload Towels. The complaint alleges that respondent violated Section 5 of the FTC Act by making false and misleading representations that its products and packaging were "biodegradable," when in fact, customary disposal methods do not allow for respondent's products or packaging to break down completely and return to nature. The complaint further alleges that respondent failed to substantiate its "biodegradable" claim. The consent order prohibits respondent from engaging in similar acts and practices by prohibiting respondent from making representations its products are biodegradable or environmentally beneficial unless substantiated by competent and reliable scientific evidence. Additionally, the order requires respondent to specify whether its biodegradability claim applies to the product, package, or components and to keep copies of relevant advertisements and their materials substantiating the claim.

Participants

For the *Commission*: Michael J. Davis and Laura Schneider,

For the *Respondents*: Richard J. Leighton and Richard F. Mann, Keller and Heckman, LLP

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:

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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.

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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

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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

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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

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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:

- A. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
- B. “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.
- C. “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.
- D. 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.

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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

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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

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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

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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.

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Exhibit A



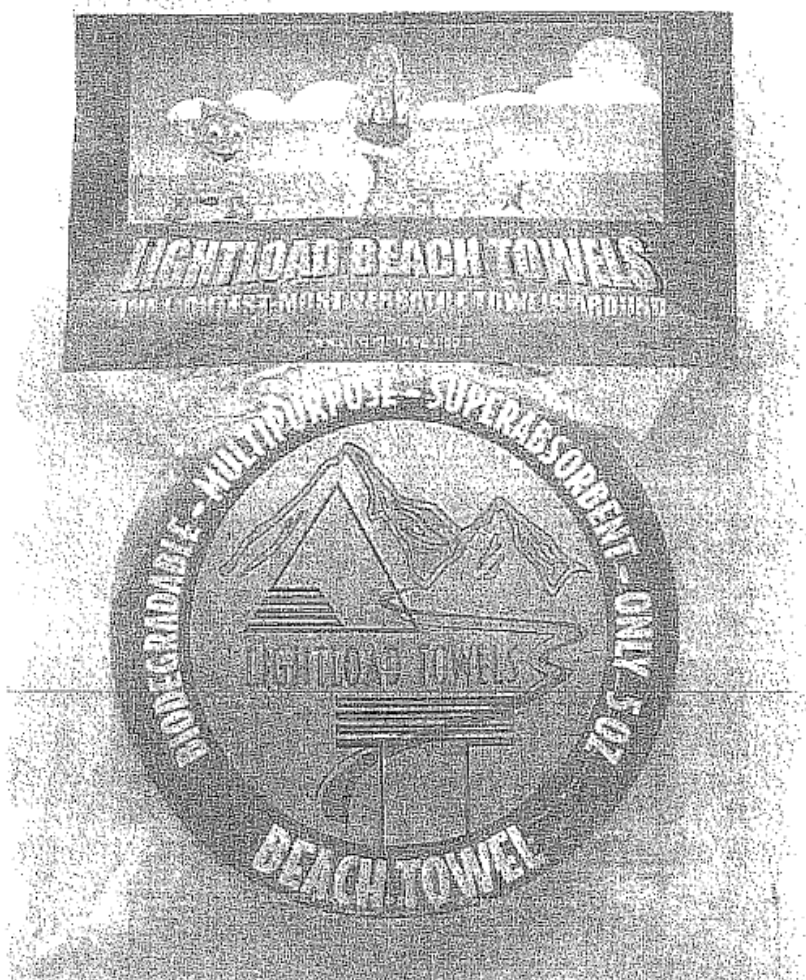
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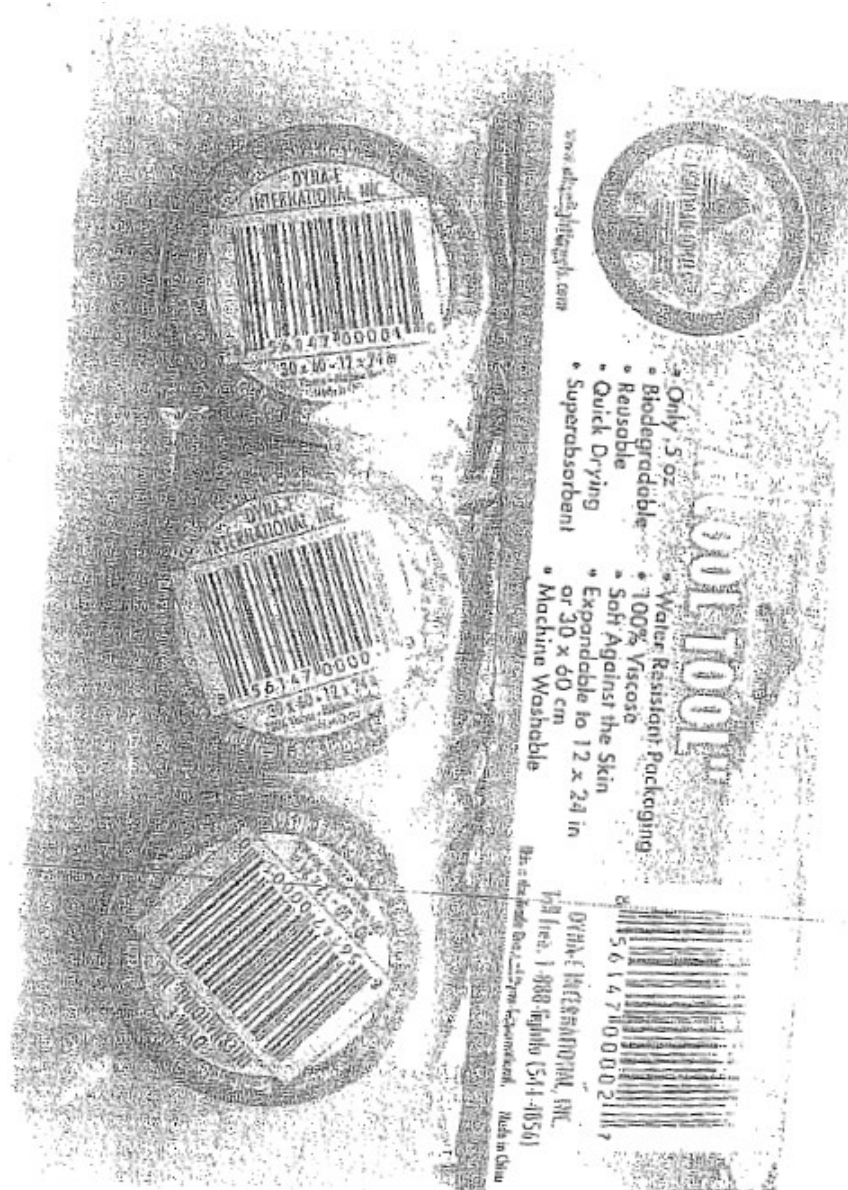
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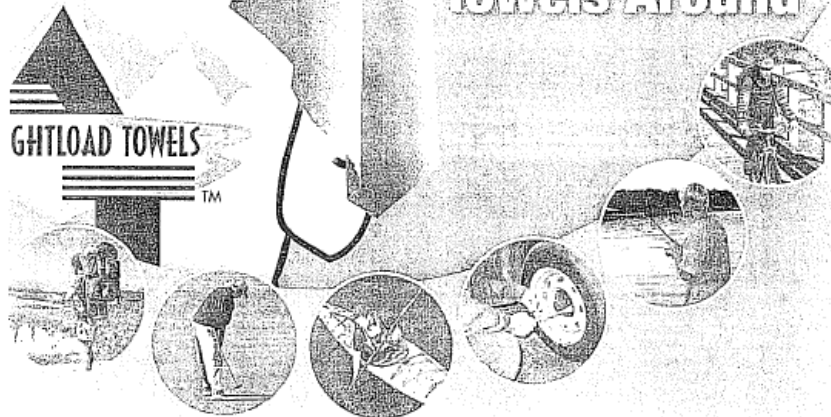
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LIGHTLOAD TOWELS

The Lightest
Most Versatile
Towels Around



SUPERABSORBENT. MULTIPURPOSE. COMPACT. MACHINE WASHABLE.

Great for Campers, Hikers, Bikers, Kayaker, Athletes, Swimmers, Fishermen, Hunters, Mechanics and much more! Not Just a towel, a tool.

Use as a

- Towel
- Dry Cloth
- Washcloth
- Neck, Headband
- First Aid Supplement
- Backpack/Seat Padding
- Water, Coffee Filter
- Pot Holder
- Fire Starter
- Handlebar Grips
- Golf Club Cleaners

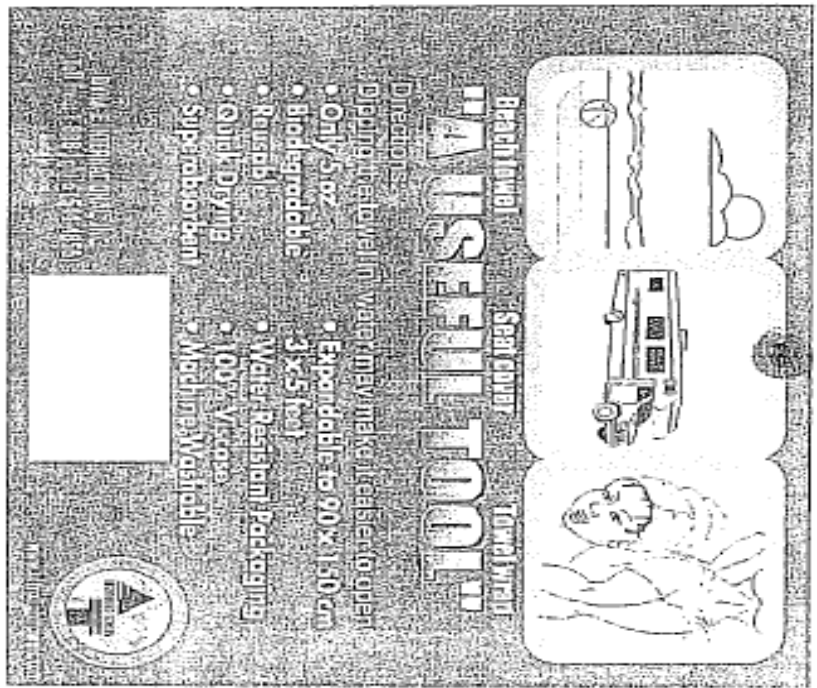
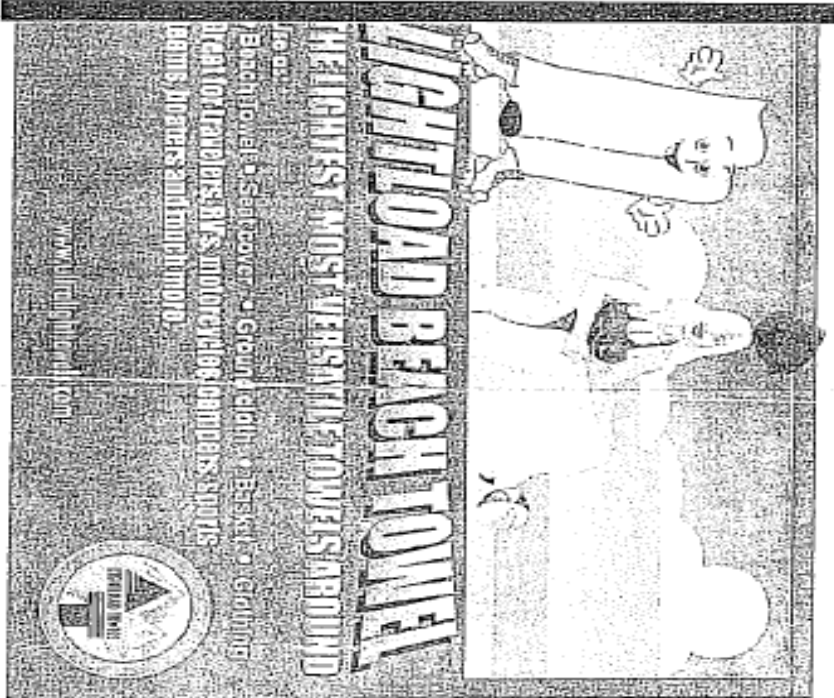
Features

- Only .5 oz
- Unfolds to 12" x 24"
- Reusable
- Superabsorbent
- Quick Drying
- Biodegradable
- Water-Resistant Packaging
- 100% Viscose



Toll Free 1.888.lightlo (544.4856) www.ultralighttowels.com

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Dyna-E International, Inc.
115-11 227th Street • Jamaica, NY 11411

LIGHTLOAD TOWELS

Supernabsorbent • Biodegradable • Quick Drying

BEACH TOWEL

World's only full size beach towel that fits in a pocket!

- Compact & Easy to carry
- More absorbent than cotton beach towels
- Size: 36 by 60 inches
- Use as a bug repellent, sun block, wind scarf and much more.

THREE-PACKS

World's only hand towels that are also survival tools!

- Size: 12 by 24 inches
- Use as a fire starter, coffee filter, wind scarf, water filter or first aid supplement.

Both beach and three packs are covered in water proof packaging and are the most energy efficient towels.

DISPLAY BOX

Each box contains 50 pieces of the 12 by 24 inch towels.
This is great for the store counter.

Lightload Towels are available to purchase online at
www.ultralighttowels.com
Distributors please contact us at 917.922.0154 or
toll free 888.544.4856

Decision and Order

DECISION AND ORDER

The Federal Trade Commission (“Commission”) having heretofore issued its complaint charging respondents, Dyna-E International, Inc. and George Wheeler, with violations of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), as amended, and respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

Respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the aforesaid complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that any of the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with § 3.25(c) of its Rules, 16 C.F.R. § 3.25(c) (2009); and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having duly considered the comment filed thereafter by an interested person pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in § 3.25(f) of its Rules, 16 C.F.R. § 3.25(f) (2009), the Commission hereby makes the following jurisdictional findings and enters the following order:

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 an officer of Dyna-E International, Inc. Individually or in concert with

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others, he formulates, directs, controls, or participates in the policies, acts, or practices alleged in the complaint. His principal office or place of business is the same as that of Dyna-E International, Inc.

3. The Commission has jurisdiction of the subject matter of this proceeding and of respondents, and the proceeding is in the public interest.

ORDER**DEFINITIONS**

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

- A. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
- B. “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.
- C. “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.
- D. 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.

Decision and Order

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;

Decision and Order

- 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.

Decision and Order

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 on December 15, 2029, or twenty (20) years from the most recent date that the United States or the

Analysis to Aid Public Comment

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.

By the Commission.

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing a consent order from Dyna-E International, Inc., a corporation, and its president and director, George Wheeler ("respondents").

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part

Analysis to Aid Public Comment

of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves respondents' marketing and sale of Lightload Towels with packaging and other marketing materials that prominently state "biodegradable" without qualification. According to the FTC complaint, respondents represented 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. The complaint alleges respondents' biodegradable claim is false because a substantial majority of total household waste is disposed of either in landfills, incinerators, or recycling facilities and these customary 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. The complaint further alleges that respondents failed to have substantiation for their biodegradable claim. The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future.

Part I.A of the proposed order prohibits respondents from making a representation that any product is degradable unless the representation is true, not misleading, and substantiated by competent and reliable scientific evidence. Part I.B prohibits respondents from making any other environmental benefit claim about any product, unless at the time the representation is made, it is truthful and not misleading, and substantiated by competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence.

Parts II through VI require respondents to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain of their personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; to notify the Commission of changes in residence, employment, or business affiliation; to file compliance reports with the

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Commission; and to respond to other requests from FTC staff. Part VII provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Complaint

IN THE MATTER OF

**DANIEL CHAPTER ONE
AND
JAMES FEIJO**

COMPLAINT IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT; INITIAL DECISION; AND
OPINION OF THE COMMISSION AND ORDER AFFIRMING THE
INITIAL DECISION.

*Docket No. 9329; File No. 082 3085**Complaint, September 16, 2008 - Initial Decision, August 5, 2009**Opinion and Order, December 18, 2009*

The Commission issued an administrative complaint, alleging that Daniel Chapter One violated Sections 5, 12 and 15 of the Federal Trade Commission Act in connection with the advertising, promotion, offering for sale, sale, and distribution of products to the public, including Bio*Shark, 7 Herb Formula, GDU, and BioMixx, which purport to prevent, treat, or cure cancer or tumors, and other serious medical illnesses. In his Initial Decision, Chief Administrative Law Judge D. Michael Chappell remedy issued an order requiring Respondents to cease and desist from making the types of misrepresentations challenged in the Complaint after determining that Respondents lacked a reasonable basis for their claims, and that Complaint Counsel demonstrated that Respondents' statements are deceptive or misleading. Respondent appealed the Initial Decision. On appeal, the Commission unanimously affirmed the Initial Decision of the Administrative Law Judge both as a matter of fact and as a matter of law. The Commission found the order entered to be proper, but modified the language in Attachment A of the Order, the prescribed notice that the Respondents are required to send to consumers who purchased the products at issue.

Participants

For the *Commission*: David W. Dulabon, William H. Efron, Leonard L. Gordon, Elizabeth K. Nach, Carole A. Paynter, and Theodore Zang, Jr.

For the *Respondents*: Betsy E. Lehrfeld, Christopher B. Turner, and James S. Turner, Swankin & Turner, and Michael McCormack, Solo Practitioner.