

RETURN DATE: July 12, 2022

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|-----------------------------|---|-------------------|
| STATE OF CONNECTICUT | : | SUPERIOR COURT |
| | : | |
| | : | JUDICIAL DISTRICT |
| v. | : | OF HARTFORD |
| | : | AT HARTFORD |
| | : | |
| REYNOLDS CONSUMER PRODUCTS, | : | JUNE 13, 2022 |
| INC. & REYNOLDS CONSUMER | : | |
| PRODUCTS, LLC | : | |

COMPLAINT

1) This action pursuant to the Connecticut Unfair Trade Practices Act (“CUTPA”), Chapter 735a of the Connecticut General Statutes (Conn. Gen. Stat. § 42-110m), seeks injunctive relief, equitable relief, civil penalties and relief as is necessary to redress injury to consumers resulting from the Defendants’ unfair and deceptive acts and practices which violate Conn. Gen. Stat. § 42-110b.

THE PARTIES

2) Plaintiff is the State of Connecticut, represented by William Tong, Attorney General of the State of Connecticut, acting at the request of Michelle H. Seagull, Commissioner of Consumer Protection, pursuant to Conn. Gen. Stat. § 42-110m(a).

3) Defendant Reynolds Consumer Products, Inc. is a publicly traded corporation organized and existing under the laws of the state of Delaware, with its principal place of business located in Lake Forest, Illinois. It is the parent company of Defendant Reynolds Consumer Products, LLC.

4) Defendant Reynolds Consumer Products, LLC is a company organized and existing under the laws of the state of Delaware, with its principal place of business located in Lake Forest,

Illinois. It is a wholly-owned subsidiary of Reynolds Consumer Products, Inc., and owns the “Hefty” trademark.

5) Whenever reference is made in this complaint to any act or practice of the Defendants Reynolds Consumer Products, Inc. or Reynolds Consumer Products, LLC (collectively, “Defendants”), such allegation shall be deemed to mean that the principals, officers, directors, employees, consultants, agents, and representatives of said Defendant did, or authorized, such act or practice, on behalf of said Defendant while actively engaged in the scope of their duties.

DEFENDANTS’ COURSE OF CONDUCT

6) At all times relevant to this Complaint, Defendants were engaged in trade or commerce in the State of Connecticut by selling consumer products, including Hefty “Recycling” trash bags, to Connecticut consumers through online commerce, big box retailers and chain grocery stores located in Connecticut.

7) The Hefty “Recycling” trash bags are sold in 13- and 30-gallon sizes. Both sizes are sold in packaging depicted below. The illustration depicts the front of a typical box of Hefty “Recycling” bags:¹



¹ Photos retrieved from Amazon.com by Casey Rybak, Paralegal Specialist for the Connecticut Office of the Attorney General on May 16, 2022.

8) Defendants place the prominent representation “RECYCLING” on the front label of the Hefty “Recycling” trash bags with a green background and white font. Next to the representation, Defendants include images of the Hefty “Recycling” trash bags filled with recyclable waste.



9) The back of the package (pictured above) states: “HEFTY RECYCLING BAGS ARE PERFECT FOR ALL YOUR RECYCLING NEEDS.”

10) The back label also states: “DESIGNED TO HANDLE ALL TYPES OF RECYCLABLES” and “TRANSPARENT FOR QUICK SORTING AND CURBSIDE IDENTIFICATION.” A graphic of a blue recycling truck is included, with the “chasing arrows” recycling symbol prominently displayed on its side.

11) Defendants’ website provided additional representations about the suitability of the Hefty “Recycling” trash bags for recycling, stating that they “[r]educe your environmental impact” and

are “designed to handle your heaviest recycling jobs.” Defendants add, “[t]hese transparent bags make it easy to sort your recyclables and avoid the landfill.”²



The screenshot shows the Hefty website's product page for recycling bags. The page features a red header with the Hefty logo and navigation links for ABOUT, PRODUCTS, SUSTAINABILITY, and WHAT'S NEW. Below the header is a large image of a box of Hefty Recycling Scent Free bags. To the right of the image is a section titled "HEFTY RECYCLING BAGS" with a red "BUY NOW" button. Below the button are two columns: "Sizes Available" (13 gal, 30 gal) and "Colors Available" (Clear transparent, Blue transparent). At the bottom of the page, there are five small images showing the bags in use.

Hefty

ABOUT PRODUCTS SUSTAINABILITY WHAT'S NEW

HEFTY RECYCLING BAGS

Reduce your environmental impact with Hefty Recycling bags designed to handle your heaviest recycling jobs. Available in 13 and 30 gallon sizes and ideal for daily use or seasonal cleaning, these transparent bags make it easy to sort your recyclables and avoid the landfill.

- Arm & Hammer™ patented odor neutralizer*
- Transparent clear or blue option for easy sorting
- Designed to handle all types of recyclables

BUY NOW

| Sizes Available | Colors Available |
|---|--|
| <ul style="list-style-type: none">• 13 gal• 30 gal | <ul style="list-style-type: none">• Clear transparent• Blue transparent |

*The ARM & HAMMER, Clean Burst, and Tropical Paradise trademarks are owned by Church & Dwight Co., Inc., and are used by Reynolds Consumer Products LLC under license.

12) Defendants sold the Hefty “Recycling” trash bags on their website with images demonstrating how to use the bags:³

² <https://www.hefty.com/products/trash-bags/clear-and-blue-recycling-bags> (cached archive visited by Casey Rybak, Paralegal Specialist for the Connecticut Office of the Attorney General on May 16, 2022).

³ <https://www.hefty.com/products/trash-bags/clear-and-blue-recycling-bags> (cached archive visited by Casey Rybak, Paralegal Specialist for the Connecticut Office of the Attorney General on May 16, 2022).



HEFTY® RECYCLING BAGS

Reduce your environmental impact with Hefty® Recycling to handle your heaviest recycling jobs. Available in 13 and 30 gallon sizes and ideal for daily use or seasonal cleaning, these bags make it easy to sort your recyclables and avoid the

- Arm & Hammer™ patented odor neutralizer*
- Transparent clear or blue option for easy sorting
- Designed to handle all types of recyclables

[BUY NOW](#)

| Sizes Available | Colors Available |
|-----------------|------------------|
|-----------------|------------------|

- 13 gal
- 30 gal

- Clear transparent
- Blue transparent



HEFTY® RECYCLING BAGS

Reduce your environmental impact with Hefty® Recycling to handle your heaviest recycling jobs. Available in 13 and 30 gallon sizes and ideal for daily use or seasonal cleaning, these bags make it easy to sort your recyclables and avoid the

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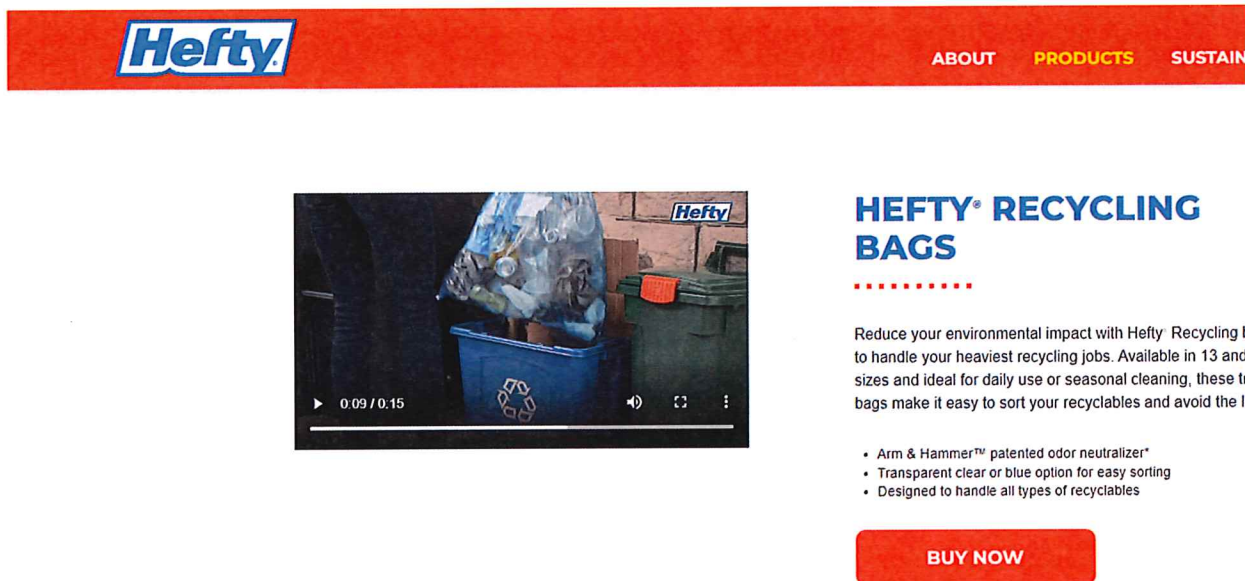
[BUY NOW](#)

| Sizes Available | Colors Available |
|-----------------|------------------|
|-----------------|------------------|

- 13 gal
- 30 gal

- Clear transparent
- Blue transparent

13) Defendants also sold the Hefty “Recycling” trash bags to Connecticut consumers along with a video advertisement showing that the bags should be put in the recycling bin with other recyclable waste:⁴



The screenshot shows the Hefty website header with the logo and navigation links: ABOUT, PRODUCTS, and SUSTAIN. Below the header is a video player showing a person placing a Hefty Recycling Bag into a blue recycling bin. The video player has a progress bar at 0:09 / 0:15. To the right of the video player is the product title "HEFTY® RECYCLING BAGS" followed by a red dotted line. Below the title is a paragraph of text: "Reduce your environmental impact with Hefty Recycling bags to handle your heaviest recycling jobs. Available in 13 and sizes and ideal for daily use or seasonal cleaning, these trash bags make it easy to sort your recyclables and avoid the la". Below the text is a list of features: "• Arm & Hammer™ patented odor neutralizer*", "• Transparent clear or blue option for easy sorting", and "• Designed to handle all types of recyclables". At the bottom right of the product information is a red "BUY NOW" button.

14) The State of Connecticut defines “recycling” as “separat[ing] or divert[ing] an item or items from the solid waste stream for the purposes of processing it or causing it to be processed into a material product, including the production of compost, in order to provide for disposition of the item or items in a manner, other than incineration or landfilling, which will best protect the environment.”⁵

⁴ <https://www.hefty.com/products/trash-bags/clear-and-blue-recycling-bags> (cached archive visited by Casey Rybak, Paralegal Specialist for the Connecticut Office of the Attorney General on May 16, 2022).

⁵ See Regulations of Connecticut State Agencies § 22a-241b(16).

15) Despite Defendants' representations, the Hefty "Recycling" trash bags are not recyclable at Connecticut materials recovery facilities ("MRFs") and are not suitable for the disposal of recyclable products at Connecticut MRFs.

16) Hefty "Recycling" trash bags are made from low-density polyethylene and are not recyclable at Connecticut MRFs.

17) When Hefty "Recycling" trash bags are delivered by waste haulers to Connecticut MRFs, the bags *and all of the otherwise recyclable items contained within them* are diverted to landfills or incinerators.

18) Connecticut MRFs do not recycle either Hefty "Recycling" trash bags or the recyclable items they contain.

19) The otherwise recyclable items (like cardboard, glass, aluminum, etc.) placed into Hefty "Recycling" trash bags by Connecticut consumers who are trying to recycle those items ultimately end up in landfills or incinerators and are not recycled.

20) At all times relevant to this Complaint, Defendants have sold and continue to sell Hefty "Recycling" trash bags in Connecticut.

CAUSES OF ACTION

Count One: Defendants' Deceptive Conduct

1-20) Paragraphs 1 through 20 of this Complaint are hereby repeated and realleged as Paragraphs 1 through 20 of this Count One as if fully set forth herein.

21) Defendants' acts and practices, as described herein, were and are likely to mislead consumers acting reasonably under the circumstances into believing that the Hefty "Recycling" trash bags are recyclable at Connecticut MRFs and that they are an appropriate container for

transporting and delivering recyclable items to Connecticut MRFs.

22) In fact, Hefty “Recycling” trash bags are not recyclable at Connecticut MRFs and they are not appropriate containers for transporting and delivering of recyclable items to Connecticut MRFs.

23) Defendants’ representations as set forth in paragraphs 1-20 of this Count were and are material to consumers’ decisions about whether or not to purchase Hefty “Recycling” trash bags.

24) Defendants have therefore engaged in unfair or deceptive acts and practices in violation of Conn. Gen. Stat. § 42-110b(a).

Count Two: Defendants’ Conduct in Count One Was Willful

1-24) Paragraphs 1 through 24 of Count One are hereby repeated and realleged as Paragraphs 1 through 24 of this Count Two as if fully set forth herein.

25) Defendants engaged in the acts and practices alleged herein when they knew or should have known that this conduct was deceptive, in violation of Conn. Gen. Stat. § 42-110b(a), and, therefore, are liable for civil penalties for up to \$5,000 per willful violation pursuant to Conn. Gen. Stat. § 42-110o(b).

Count Three: Defendants’ Unfair Conduct Based on Connecticut Public Policy

1-24) Paragraphs 1 through 24 of Count One are hereby repeated and realleged as Paragraphs 1 through 24 of this Count Three as if fully set forth herein.

25) Defendants’ acts and practices are in contravention of the public policy of the State of Connecticut, as set forth in Regulations of Connecticut State Agencies § 22a-241b(16), encouraging consumers to recycle those items that can be “processed into a material product,

including the production of compost, in order to provide for disposition of the item or items in a manner, other than incineration or landfilling, which will best protect the environment.”

26) Defendants’ acts and practices are in contravention of Connecticut’s public policy, as administered through many governmental agencies including the Department of Energy and Environmental Protection, to promote recycling and to promote transparency in the recycling process.

27) Defendants’ acts and practices are in contravention of Connecticut public policies, set forth in Conn. Gen. Stat. § 22a-241b, mandating recycling and prohibiting consumers from mixing non-recyclables with recyclables, in that Defendants’ advertising expressly directs consumers to violate these policies.

28) Defendants’ acts and practices as alleged herein were unethical, immoral, oppressive, and unscrupulous.

29) Defendants’ acts and practices as alleged herein have caused substantial injury to Connecticut consumers inasmuch as otherwise recyclable items delivered by waste haulers to Connecticut’s MRFs are and have been routed to the waste stream for incineration or deposited in a landfill because the items had been placed in a Hefty “Recycling” trash bag.

30) Defendants’ acts and practices as alleged herein therefore constitute unfair acts or practices in violation of General Statutes § 42-110b(a).

Count Four: Defendants’ Conduct in Count Three was Willful

1-30) Paragraphs 1 through 30 of Count Three are hereby repeated and realleged as Paragraphs 1 through 30 of this Count Four as if fully set forth herein.

31) Defendants engaged in the acts and practices alleged herein when they knew or should have known that this conduct was an unfair trade practice, in violation of Conn. Gen. Stat. § 42-110b(a), and, therefore, are liable for civil penalties for up to \$5,000 per willful violation pursuant to Conn. Gen. Stat. § 42-110o(b).

Count Five: Defendants' Unfair Conduct Based on Federal Public Policy

1-24) The allegations of paragraphs 1 through 24 of Count One are incorporated herein as paragraphs 1 through 24 of this Count Five as if fully set forth herein.

25) Defendants' acts and practices violate the public policy of the Guides for the Use of Environmental Marketing Claims (16 CFR § 260) published by the Federal Trade Commission, which sets forth, among other things, the following:

It is deceptive to misrepresent, directly or by implication, that a product or package is recyclable. A product or package should not be marketed as recyclable unless it can be collected, separated, or otherwise recovered from the waste stream through an established recycling program for reuse or use in manufacturing or assembling another item.

16 CFR § 260.12 (a).

26) Defendants' acts and practices as alleged herein were unethical, immoral, oppressive, and unscrupulous.

27) Defendants' acts and practices as alleged herein have caused substantial harm to Connecticut consumers, inasmuch as otherwise recyclable items delivered by waste haulers to Connecticut's MRFs would be routed to the waste stream for incineration or deposit in a landfill because the items had been placed in a Hefty "Recycling" trash bag.

28) Defendants' acts and practices as alleged herein therefore constitute unfair acts or practices in violation of General Statutes § 42-110b(a).

Count Six: Defendants' Conduct in Count Five was Willful

1-28) The allegations of paragraphs 1 through 28 of Count Five are incorporated herein as paragraphs 1 through 28 of this Count Six as if fully set forth herein.

29) Defendants engaged in the aforementioned acts or practices alleged herein when they knew or should have known that their conduct was unfair or deceptive in violation of Conn. Gen. Stat. § 42-110b(a), and, therefore, are liable for civil penalties for up to \$5,000 per willful violation pursuant to Conn. Gen. Stat. § 42-110o(b).

PRAYER FOR RELIEF


WHEREFORE, the State of Connecticut requests the following relief:

- 1) A finding that by the acts alleged herein, Defendants engaged in unfair and deceptive acts and practices in the course of engaging in trade or commerce within the State of Connecticut in violation of CUTPA;
- 2) An injunction pursuant to Conn. Gen. Stat. § 42-110m enjoining Defendants from engaging in any acts that violate CUTPA, including, but not limited to, the deceptive acts and unfair trade practices alleged herein;
- 3) An order that the Defendants fund a corrective education campaign to remedy the harm inflicted by their deceptive, false and confusing advertising, to be administered and controlled by the State or such other independent third party as the Court may deem appropriate;
- 4) An order pursuant to Conn. Gen. Stat. § 42-110m directing Defendants to pay a civil penalty of \$5,000 for each and every willful violation of CUTPA;

- 5) An order pursuant to Conn. Gen. Stat. § 42-100m directing Defendants to disgorge all revenues, profits, and gains achieved in whole or in part through the unfair acts or practices complained of herein;
- 6) An order pursuant to Conn. Gen. Stat. § 42-100m directing Defendants to pay reasonable attorney's fees to the State of Connecticut;
- 7) Costs of suit; and
- 8) Such other relief as this Court deems just and equitable.

PLAINTIFF
MICHELLE H. SEAGULL
COMMISSIONER
DEPARTMENT OF CONSUMER
PROTECTION

WILLIAM TONG
ATTORNEY GENERAL

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STATEMENT OF AMOUNT IN DEMAND

The Plaintiff states that the amount in demand is greater than Fifteen Thousand Dollars (\$15,000) exclusive of interest and costs.

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