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[Plaintiff's Counsel Continued on Attachment A]

FILED
YOLO SUPERIOR COURT
MAY 24 2017
BY O. WEISENBERG
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

**TRACTOR SUPPLY COMPANY, INC., a Delaware Corporation; and
PETSENSE, INC., a Delaware Corporation,**

Defendants.

Case No. **CV17-815**

COMPLAINT FOR PERMANENT INJUNCTION, CIVIL PENALTIES AND OTHER EQUITABLE RELIEF

(Health & Saf. Code, Div. 20, Chapters 6.5 and 6.95; Bus. & Prof. Code § 17200, *et seq.*)

Filing Fees Exempt (Govt. Code § 6103)

Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA ("People"), based on information and belief, alleges as follows:

PLAINTIFF

1. The People bring this action by and through Jeff W. Reisig, District Attorney of Yolo County; Todd Riebe, District Attorney of Amador County; Michael L. Ramsey, District Attorney of Butte County; Vern Pierson, District Attorney of El Dorado County; Lisa A.

1 Smittcamp, District Attorney of Fresno County; Mark A. Peterson, District Attorney of Contra
2 Costa County; Dwayne R. Stewart, District Attorney of Glenn County; Maggie Fleming, District
3 Attorney of Humboldt County; Gilbert G. Otero, District Attorney of Imperial County; Lisa S.
4 Green, District Attorney of Kern County; Keith Fagundes, District Attorney of Kings County;
5 Stacey L. Montgomery, District Attorney of Lassen County; David Linn, District Attorney of
6 Madera County; C. David Eyster, District Attorney of Mendocino County; Larry D. Morse II,
7 District Attorney of Merced County; Allison Haley, District Attorney of Napa County; R. Scott
8 Owens, District Attorney of Placer County; Michael A. Hestrin, District Attorney of Riverside
9 County; Anne Marie Schubert, District Attorney of Sacramento County; Michael A. Ramos,
10 District Attorney of San Bernardino County; Bonnie M. Dumanis, District Attorney of San Diego
11 County; Tori Verber Salazar, District Attorney of San Joaquin County; Dan Dow, District
12 Attorney of San Luis Obispo County; Joyce E. Dudley, District Attorney of Santa Barbara
13 County; Jeffrey F. Rosen, District Attorney of Santa Clara County; Jeffrey S. Rosell, District
14 Attorney of Santa Cruz County; Stephanie A. Bridgett, District Attorney of Shasta County; J.
15 Kirk Andrus, District Attorney of Siskiyou County; Krishna A. Abrams, District Attorney of
16 Solano County; Jill R. Ravitch, District Attorney of Sonoma County; Birgit A. Fladager, District
17 Attorney of Stanislaus County; Amanda Hopper, District Attorney of Sutter County; Gregg
18 Cohen, District Attorney of Tehama County; Tim Ward, District Attorney of Tulare County;
19 Gregory D. Totten, District Attorney of Ventura County; and Laura L. Krieg, District Attorney of
20 Tuolumne County; (collectively “Prosecutors”).

21 2. Pursuant to Health and Safety Code section 25182, the Prosecutors may bring a
22 civil action in the name of the People of the State of California to enjoin any violation of Chapter
23 6.5 of Division 20 of the Health and Safety Code (hereinafter “Chapter 6.5”) and to seek civil
24 penalties for violations of the provisions of Chapter 6.5.

25 3. Pursuant to Health and Safety Code sections 25515.6 and 25515.7, the Prosecutors
26 may bring a civil action in the name of the People of the State of California to enjoin any
27 violation of Health and Safety Code sections 25504 to 25508.2, inclusive, or section 25511 of
28 Chapter 6.95 of Division 20 of the Health and Safety Code (hereinafter “Chapter 6.95”).

1 unfair competition, as defined in California Business and Professions Code section 17200.

2 19. Business and Professions Code section 17203 authorizes the Court to issue an
3 order that enjoins any person who engages, has engaged, or proposes to engage in unfair
4 competition, as defined in California Business and Professions Code section 17200.

5 20. Health and Safety Code sections 25181 and 25184 authorize the Court to issue an
6 order that enjoins any ongoing or potential violation of the HWCL, or of any applicable rule,
7 regulation, permit, standard, requirement, or order issued or promulgated pursuant to the HWCL.

8 21. Health and Safety Code sections 25515.6 and 25515.8 authorize the Court to issue
9 an order that enjoins any ongoing or potential violation of Chapter 6.95.

10 22. Health and Safety Code sections 25184 and 25515.8 provide that in civil actions
11 brought pursuant to the HWCL or Chapter 6.95, respectively, in which an injunction or temporary
12 restraining order is sought, it shall not be necessary for the People to allege or prove at any stage
13 of the proceeding that irreparable damage will occur should the temporary restraining order,
14 preliminary injunction, or permanent injunction not be issued, or that the remedy at law is
15 inadequate, and the temporary restraining order, preliminary injunction, or permanent injunction
16 shall issue without such allegations and without such proof.

17 **GENERAL ALLEGATIONS**

18 23. The facts constituting grounds for commencing this action were discovered within
19 five (5) years of the tolled statute of limitations period, as set out in paragraph 15, or within five
20 (5) years of the filing of this complaint, and continued thereafter and shall henceforth be referred
21 to as “all relevant times.”

22 24. At all relevant times Defendants owned, operated, licensed, or leased and
23 continues to own, operate, license, or lease, and is responsible for acts and/or omissions
24 committed at Defendants’ Facilities throughout California.

25 25. At all relevant times, Defendants handled at Defendants’ Facilities hazardous
26 materials, including but not limited to, pesticides, fertilizers, over-the-counter and pet
27 medications, automotive type fluid products, batteries, ignitable liquids, and other flammable,
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1 reactive, toxic and corrosive materials. Many of those hazardous materials are sold to the public
2 in the ordinary course of business.

3 26. At all relevant times, Defendants also generated regulated quantities of hazardous
4 waste at each of Defendants' Facilities as a result of various causes, including but not limited to,
5 damage to containers, spills and releases of hazardous materials, and various hazardous wastes
6 generated from customer returns of hazardous products, which must be handled and disposed of
7 as hazardous waste in compliance with the HWCL.

8 27. At all relevant times, Defendants are and were responsible for the operation of
9 Defendants' Facilities.

10 28. At all relevant times to this Complaint, Defendants are and were aware of and
11 conducted, approved and/or controlled the hazardous-materials, and hazardous-waste
12 management activities at Defendants' Facilities.

13 29. At all relevant times to this Complaint, Defendants' actions and/or omissions, as
14 part of a continuing course of conduct, are or were the legal cause of the violations alleged herein,
15 and Defendants reasonably could have taken action to prevent them.

16 30. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times,
17 Defendants, at each of Defendants' Facilities, generated hazardous waste during every one
18 hundred eighty (180) day period.

19 31. Plaintiff is informed and believes and thereupon alleges that, at all relevant times,
20 Defendants violated provisions of the following statutes, including implementing regulations
21 associated with each of the statutes and any related permit, rule, standard, or requirement issued
22 or promulgated pursuant to these statutes, at Defendants' Facilities within the time period
23 applicable to this action: Chapter 6.5 of the Health and Safety Code, section 25100 et seq.,
24 Chapter 6.95 of the Health and Safety Code, section 25500 et seq., Health and Safety Code
25 Sections 117600-118360; and Business and Professions Code section 17200 et seq.

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1 Manifest];

2 f. Failed to timely notify the DTSC by filing an exception report concerning the
3 treatment, storage, or disposal facility's failure to return any executed manifest, as required by
4 Health & Safety Code Section 25160(b)(3);

5 g. Failed to comply with employee training obligations pertaining to handling of
6 hazardous waste at Defendants' Facilities, in violation of Title 22 of the California Code of
7 Regulations, section 66262.34(d) and 40 C.F.R. § 262.34(d)(5)(iii);

8 h. Failed to properly manage, mark, and store universal waste at each of Defendants'
9 Facilities in compliance with the standards for universal waste management found in California
10 Code of Regulations, Title 22, Sections 66273.33 [Universal Waste Management Requirements
11 for Batteries, Lamps, and Mercury-Containing Equipment] through 66273.36; or in the
12 alternative, failed to manage such waste as hazardous waste as required by Chapter 6.5 of the
13 Health and Safety Code and its implementing regulations in the California Code of Regulations,
14 Title 22, including, but not limited to, Section 66262.34;

15 i. Failed to keep a record of each shipment of universal waste sent from any of
16 Defendants' Facilities, as required by Title 22 of the California Code of Regulations Section
17 66273.39, or in the alternative, failed to manage such waste as hazardous waste as required by
18 Chapter 6.5 of the Health and Safety Code and its implementing regulations in the California
19 Code of Regulations, Title 22, including, but not limited to, Section 66262.34;

20 j. Failed to treat returned or discarded non-empty aerosol cans at Defendants'
21 Facilities as universal waste or hazardous waste, in violation of California Code of Regulations,
22 Title 22, Chapter 23, section 66273.1 et seq.;

23 k. Failed to implement, maintain or submit to the unified program agency (as defined
24 in Health and Safety Code sections 25501 and 25502), a complete hazardous materials business
25 plan for each of the Defendants' Facilities, in violation of Health and Safety Code sections 25505
26 and 25508, and section 2650 of Title 19 of the California Code of Regulations [Minimum
27 Standards for Business Plans];

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1 as alleged in the First through Fourth Causes of Action and paragraph 32, above, and unless
2 enjoined by order of the Court, Defendants may or will continue in the course of conduct as
3 alleged herein.

4 59. Each and every separate act constitutes an unlawful and/or unfair business
5 practice. Each day that Defendants engaged in each separate unlawful act, omission or practice is
6 a separate and distinct violation of Business and Professions Code section 17200.

7 60. Plaintiff alleges that, pursuant to Business and Professions Code section 17206,
8 Defendants are liable for civil penalties for each and every separate act of unfair competition as
9 alleged herein.

10 61. Based on the above, the People request injunctive relief against Defendants under
11 Business and Professions Code section 17203 to prevent Defendants from engaging in the acts or
12 practices alleged in paragraph 32 this Complaint—including those acts that violate Chapter 6.5
13 and/or 6.95 of Division 20 of the Health and Safety Code and their implementing regulations, and
14 county and local ordinances pertaining to hazardous waste generator permits—which thereby
15 constitute unfair competition within the meaning of Business and Professions Code section
16 17200.

17 **PRAYER FOR RELIEF**

18 Based on the above, the People request the following relief as to Defendants:

19 1. A Permanent Injunction requiring Defendants to comply with those provisions of
20 Health and Safety Code, Division 20, Chapter 6.5, and implementing regulations, which
21 Defendants are alleged to have violated;

22 2. A Permanent Injunction requiring Defendants to comply with those provisions of
23 Health and Safety Code, Division 20, Chapter 6.95, and implementing regulations, which
24 Defendants are alleged to have violated;

25 3. A Permanent Injunction, issued pursuant to Business and Professions Code section
26 17203, prohibiting Defendants from engaging in the unlawful activity alleged in paragraph 32 of
27 this Complaint—including those acts that violate the provisions of Chapters 6.5 and 6.95 of
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1 Division 20 of the Health and Safety Code—which thereby constitute unfair competition within
2 the meaning of Business and Professions Code section 17200;

3 4. Civil penalties against Defendants for each violation of Health and Safety Code
4 section 25189, or alternatively section 25189.2, in an amount according to proof;

5 5. Civil penalties against Defendants pursuant to Health and Safety Code section
6 25515, in an amount according to proof;


7 6. Civil penalties against Defendants pursuant to Business and Professions Code
8 section 17206 for each act of unfair competition, in an amount according to proof;

9 7. Plaintiff's costs of inspection, investigation, attorney's fees, enforcement,
10 prosecution, and suit herein; and

11 8. Such other and further relief as the Court deems just and proper.

12 Dated: 5/24/17

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County of Yolo, State of California

14 By: 
15 P.P. David J. Irely
16 Assistant Chief Deputy District Attorney
17 Attorneys for Plaintiff
18 The People of the State of California

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