

RETURN DATE: NOVEMBER 23, 2004

STATE OF CONNECTICUT	:	SUPERIOR COURT
<i>Plaintiff</i>	:	
	:	HARTFORD JUDICIAL DISTRICT
v.	:	
	:	
ASAP MEDS, INC. d/b/a MEDS-STAT	:	
<i>Defendants</i>	:	OCTOBER 20, 2004

COMPLAINT

FIRST COUNT

1. This is an action under the Connecticut Unfair Trade Practices Act (“CUTPA”), Chapter 735a of the General Statutes, to secure injunctive relief against the defendant’s alleged violations of General Statutes § 42-110b(a), which prohibits unfair or deceptive acts and practices, to obtain appropriate equitable relief including relief as is necessary to redress injury to consumers resulting from the Defendant’s alleged violations of CUTPA, and for civil penalties.
2. The Plaintiff is the State of Connecticut, represented by Richard Blumenthal, Attorney General, acting at the request of Edwin R. Rodriguez, Commissioner of Consumer Protection, pursuant to the Connecticut Unfair Trade Practices Act, and more particularly, General Statutes § 42-110m(a).
3. ASAP Meds, Inc. (“ASAP” or the “Defendant”) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its

principal place of business located at 5100 N. Federal Hwy, #204, Fort Lauderdale, Florida, 33308. Upon information and belief, the Defendant does business as MEDS-STAT.

DEFENDANT'S COURSE OF CONDUCT

4. The Defendant is engaged in the trade or commerce of offering for sale and selling pharmaceuticals at wholesale to hospital pharmacies, clinics, and others in the State of Connecticut.

5. Whenever reference is made in this complaint to any act or practice of the Defendant, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents and representatives of the Defendant did, or authorized, such act or practice, on behalf of the Defendant while actively engaged in the scope of their duties.

6. Prior to the beginning of October, 2004, the influenza vaccine manufactured for the 2004-05 influenza season was selling in Connecticut for approximately Sixty-Nine Dollars (\$69.00) to Eighty Dollars (\$80.00) per vial (each vial containing 10 doses). During the same period, ASAP was offering for sale the influenza vaccine for the 2004-05 influenza season for between Seventy Dollars (\$70.00) and Ninety Dollars (\$90.00) per vial.

7. On or about the beginning of October, 2004, one of the two primary suppliers of the influenza vaccine had its license to manufacture the influenza vaccine suspended, thereby reducing the supply of influenza vaccine in the United States by approximately one half. As a result of this suspension, not only is the remaining supply of the influenza vaccine insufficient to meet the historical demands for the vaccine, but also the remaining supply of the influenza

vaccine is insufficient to vaccinate those people who are at greatest risk from serious complications from influenza disease in the United States.

8. The United States Department of Health and Human Services, Centers for Disease Control and Prevention define the people who are at greatest risk from serious complications from influenza disease as, among others, people 65 years of age and older; children ages 6 months to 23 months; adults and children 2 years of age and older with chronic lung or heart disorders, including heart disease and asthma; women who will be pregnant during the influenza season; adults and children 2 years of age and older with chronic metabolic diseases; and residents of nursing homes and other chronic-care facilities. The above population is at particular risk should they became infected with the influenza virus.

9. On or about October 5, 2004, despite the risk posed to the health and safety of Connecticut residents by the significant shortage of influenza vaccine on the market, ASAP offered to sell to persons in Connecticut vials of the influenza vaccine for up to Six Hundred Dollars (\$600.00) per vial, more than six times the standard market value of the vaccine.

10. On or about October 8, 2004, despite the risk posed to the health and safety of Connecticut residents by the significant shortage of influenza vaccine on the market, ASAP offered to sell to persons in Connecticut vials of the influenza vaccine for Nine Hundred Dollars (\$900) per vial, more than ten times the standard market value of the vaccine.

DEFENDANT'S VIOLATIONS OF CUTPA

11. The Defendant's course of conduct as alleged herein has been undertaken in the conduct of trade or commerce as defined in General Statutes § 42-110a(4).

12. The Defendant's acts and practices as alleged herein violates the public policy of the State of Connecticut in several respects, including the public policy prohibiting unconscionable terms in contracts, including unconscionable selling prices.

13. The Defendant's acts and practices as alleged herein were unethical, oppressive, and unscrupulous.

14. The Defendant's acts and practices as alleged herein caused or were likely to cause substantial consumer injury by unconscionably affecting the price and availability of influenza vaccine and thereby subjecting Connecticut's most vulnerable residents to unwarranted health and safety risks, all of which could not have been reasonably avoided and which produced no countervailing benefits.

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

SECOND COUNT

1-15. Paragraphs 1 through 15 of the First Count are incorporated as paragraphs 1 through 15 of this Second Count.

16. The Defendant has engaged in, and continues to engage in, the unfair acts or practices alleged herein when it knew or should have known that its conduct was unfair in violation of General Statutes § 42-110b.

THIRD COUNT

1-10. Paragraphs 1 through 10 of the First Count are incorporated as paragraphs 1-10 of this Third Count.

11. The Defendant has sold or offered to sell influenza vaccine in Connecticut without obtaining a certificate of authority to do so from the Secretary of the State, in violation of General Statutes § 33-920.

12. The Defendant's acts and practices, as alleged in this Third Count, violate the public policy of the State of Connecticut, have been and are unethical, oppressive and unscrupulous, and cause substantial injury to consumers.

13. The Defendant's acts and practices, as alleged in this Third Count, have been and are material, false, and likely to mislead purchasers of the influenza vaccine about the Defendant's authority to transact business in Connecticut.

14. The Defendant's acts and practices, as alleged herein, constitute unfair or deceptive acts or practices in violation of General Statutes § 42-110b(a).

FOURTH COUNT

1-14. Paragraphs 1-14 of the Third Count are incorporated as paragraphs 1 through 14 of this Fourth Count.

15. The Defendant has engaged in the unfair and/or deceptive acts or practices alleged herein when it knew or should have known that its conduct was unfair or deceptive in violation of General Statutes § 42-110b.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff claims the following relief:

1. An order pursuant to General Statutes § 42-110m(a) enjoining the Defendant from further violation of General Statutes § 42-110b(a).
2. An order, pursuant to General Statutes § 42-110m(a), directing the Defendant to pay restitution.
3. An order, pursuant to General Statutes § 42-110o(b), directing the Defendant to pay civil penalties for each willful violation of General Statutes § 42-110b(a).
4. An order, pursuant to General Statutes § 42-110m(a), directing the Defendant to disgorge all revenues, profits and gains achieved in whole or in part through the unfair and/or deceptive acts or practices complained of herein.
5. An award of attorneys fees, pursuant to General Statutes § 42-110m(a).
6. Costs of suit.
7. Such other and further relief as the Court deems appropriate.

The Plaintiff hereby states that the amount in demand is more than Fifteen Thousand Dollars (\$15,000.00), exclusive of interest and costs.

HEREOF FAIL NOT, BUT OF THIS WRIT, MAKE DUE SERVICE AND RETURN,
ACCORDING TO LAW.

Dated at Hartford, Connecticut, this _____ day of October, 2004.

PLAINTIFF,
STATE OF CONNECTICUT

BY: _____
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