

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

PEOPLE OF THE STATE OF NEW YORK, by
LETITIA JAMES, Attorney General of the
State of New York,

Petitioners,

– against –

QUALITY KING DISTRIBUTORS, INC., and
GLENN NUSSDORF,

Respondents.

Index No. _____

IAS Part _____

Assigned to Justice _____

VERIFIED PETITION

The People of the State of New York (“the People”), by their attorney, Letitia James, Attorney General of the State of New York (NYAG), bring this special proceeding pursuant to General Business Law § 396-r and Executive Law § 63(12) against Quality King Distributors, Inc. and Glenn Nussdorf, its chief executive officer (collectively, “Quality King” or “Respondents”).

The NYAG, on behalf of the People, alleges upon information and belief:

PRELIMINARY STATEMENT

1. Quality King Distributors is a major wholesale distributor of retail products based in Bellport, Long Island. It sells Lysol disinfectant products, including Lysol Disinfectant Spray (“Lysol Spray”) and Lysol Disinfectant Wipes (“Lysol Wipes”), to neighborhood grocery and discount stores in New York.

2. During the coronavirus pandemic Quality King Distributors, under the supervision of its chief executive officer Glenn Nussdorf, has engaged in price-

gouging in violation of New York law. Quality King has done so by increasing its wholesale prices on sales of Lysol disinfectant products, which are vital and necessary consumer goods, far above its prices for the products prior to the coronavirus pandemic crisis.

3. Quality King has done so not to offset increased costs but simply to line its own pockets and profit off New Yorkers during a time of crisis. By gouging prices Quality King has dramatically boosted its gross profit margins for Lysol Spray, almost quintupling them over its pre-crisis margins.

4. Quality King's conduct has wrought great damage upon consumers in New York, who have been forced during the pandemic crisis to pay increased retail prices for Lysol disinfectant products.

5. The NYAG brings this petition pursuant to General Business Law § 396-r and § Executive Law § 63(12) for an order (a) permanently enjoining Quality King from engaging in the illegal price-gouging alleged herein; (b) requiring it to provide an accounting; (c) ordering it to pay restitution to aggrieved consumers, disgorgement of profits, a civil penalty, and costs; and (d) providing for such other and further relief as the Court deems just and proper.

PARTIES AND JURISDICTION

6. Petitioners are the People of the State of New York.

7. The NYAG brings this special proceeding on behalf of the People pursuant to General Business Law § 396-r, which prohibits business from charging excessive prices for vital and necessary consumer goods during periods of abnormal

market disruption, and Executive Law § 63(12), which authorizes the NYAG to seek injunctive relief, restitution, disgorgement, civil penalties, and costs when any person or entity has engaged in repeated fraudulent or illegal acts or has otherwise demonstrated persistent fraud or illegality in conducting its business.

8. Quality King Distributors is a domestic business corporation located at 35 Sawgrass Drive, Bellport, New York, in Suffolk County. Its registered agent for the purposes of service of process is Corporation Service Company, 80 State Street, Albany, New York.

9. Glenn Nussdorf is Chief Executive Officer (CEO) of Quality King Distributors and is on information and belief responsible for supervising the company's operations, including the pricing practices addressed herein. On information and belief Nussdorf resides in New York County, New York.

FACTS

10. Prior to the pandemic crisis, from November 2019 through January 2020, Quality King sold Lysol Spray to retail stores at a consistent median monthly price of about \$51 for a 12-pack of 19-ounce cans of the product, or about \$4.25 per can.

11. Quality King has increased its wholesale prices, however, as the nation became gripped by the coronavirus pandemic after January 2020. It did so repeatedly during February, March, and April 2020, increasing its prices higher and higher as news spread of the dangers of COVID-19 and the ability of Lysol products to kill the virus on surfaces to reduce the risk of infection.

12. As early as January 30, 2020, it was reported nationally that Lysol Spray and Lysol Wipes had been shown to be effective in fighting viruses similar to COVID-19.

13. The next day, January 31, U.S. Secretary of Health and Human Services Alex M. Azar II declared that the United States had been under a nationwide “public health emergency” since January 27, 2020 “[a]s a result of confirmed cases of 2019 Novel Coronavirus.”

14. In late January and in February, following Secretary Azar’s announcement and other news of the pandemic, Quality King increased its wholesale prices significantly.

15. In February 2020 Quality King sold Lysol Spray at a median price of \$63.16 for a 12-pack of 19-ounce cans, or \$5.26 per can, reflecting a 23% increase from its median price for the product in January 2020.

16. Quality King increased its prices further as the coronavirus news continued. On February 26, 2020, the U.S. Centers for Disease Control and Prevention (CDC) announced, “We expect we will see community spread in this country.” “Now is the time for US businesses, hospitals, and communities to begin preparing for the possible spread of #COVID19,” the agency announced.

17. The next day, February 27, Quality King began selling 12-packs of Lysol for prices as high as \$72.63, or \$6.05 per can.

18. On March 5, 2020, the U.S. Environmental Protection Agency (EPA) named Lysol Spray and Lysol Wipes as products “approved for use against COVID-

19 on surfaces,” explaining that they and other products were “effective against viruses that are even ‘harder-to-kill’ than the novel coronavirus.”

19. The next day, March 6, 2020, Quality King increased its price for 12-packs of Lysol Spray to \$78, or \$6.50 per 19-ounce can.

20. During March 2020 the pandemic emergency wrought sickness and death on a massive scale, caused a devastating surge in unemployment claims, sent stock prices into a tailspin, and caused sharp increases in the prices for both products to prevent transmission of the coronavirus and basic grocery staples and household essentials.

21. During this period Quality King increased its prices again and again.

22. On March 7, 2020, Governor Andrew J. Cuomo issued an emergency declaration, declaring the existence of “a State disaster emergency for the entire State of New York.”

23. The next day, March 8, Quality King increased its price for Lysol Spray to \$84.84 per 12-pack of 19-ounce cans.

24. Two days later, on March 10, it raised its prices yet again, to \$95.45 per 12-pack, or \$7.95 per can.

25. On March 16, 2020, the Dow Jones Industrial Average fell nearly 3,000 points, marking its worst single-day fall in stock prices since the Black Friday crash of 1987.

26. The next day, March 17, Quality King raised its price for Lysol Spray to \$102.27, or \$8.52 per can – about twice the median price it had charged for the product in January 2020.

27. On March 26, it was reported that 81,321 people in the United States were infected with the coronavirus, marking more victims in this country than in any other.

28. On March 28, the CDC issued a domestic travel advisory urging residents of New York to refrain from non-essential domestic travel.

29. And two days later, on March 30, 2020, Quality King raised its prices to the highest level yet, charging \$109.77 per 12-pack, or \$9.15 per can.

30. Complaints from consumers and retailers indicate that Quality King has also increased its prices for Lysol Wipes. A merchant in the Bronx complained to the NYAG of Quality King's prices for the products, stating that it charged consumers high prices for Lysol Wipes because its wholesalers, indicating Quality King, had increased their prices to purchase the product.

31. Complaints to the NYAG indicate that Quality King has also increased its prices for other sizes of Lysol Spray besides 19-ounce cans. Several consumers have complained to the NYAG that they have been overcharged for Lysol Spray in small sizes by merchants that have bought Lysol Spray from Quality King.

32. New York consumers have borne the harm from Quality King's price increases.

33. On information and belief, prior to the coronavirus pandemic Lysol Spray was commonly sold in New York for retail prices ranging from \$5 to \$8. Subsequently, however, Consumers have repeatedly attempted to buy Lysol Spray from retail stores during the pandemic, only to encounter excessive prices as a result of Quality King's price increases.

34. For example, numerous consumers have complained that a discount store with locations in Jamaica and Kew Gardens, Queens, has overcharged for Lysol products. According to consumer complaints, the store has charged prices as high as \$16.99 each for cans of Lysol Spray and packages of Lysol Wipes.

35. When confronted with such complaints, the retailer sent the NYAG an email explaining that its wholesale prices had increased, indicating prices from Quality King, and stating that as a result the merchant was put in the position of either paying the increased wholesale prices or not stocking the products.

36. But unlike such retailers, Quality King is not passing on a price increase from its suppliers.

37. Quality King's costs to acquire Lysol Spray from its wholesale suppliers have stayed generally flat, with median monthly purchase costs ranging from \$42.24 to \$42.96 for a 12-pack of 19-ounce cans from November 2019 through March 2020.

38. And while Quality King has asserted to the NYAG that it experienced certain increased costs related to the COVID-19 pandemic, those purported costs do not account for its increases in the price of Lysol.

39. As a result, because Quality King has increased its sale prices during the coronavirus pandemic without being compelled to do so by cost increases, it has been able to increase its gross profit margins dramatically.

40. In November 2019 through January 2020, while Quality King sold Lysol Spray at pre-crisis prices of about \$51 per 12-pack of 19-ounce cans, it enjoyed a monthly median unit margin on sales of Lysol ranging from 18.6% to 21.2%.

41. In the following two months, by contrast, when Quality King increased its monthly median prices to \$63.16 and \$84, respectively, it more than doubled and then almost quintupled its unit margins, reaching margins of 47.0% for February 2020 and 95.5% for March 2020.

42. A summary of Quality King's increases to its median sale prices and unit margins during this period is shown below.

Quality King Costs, Prices, and Margin for Lysol Disinfectant Spray

	Median Purchase Cost		Median Sale Price		Gross Margin
	<i>Per Pack of 12</i>	<i>Per 19-oz. Can</i>	<i>Per Pack of 12</i>	<i>Per 19-oz. Can</i>	
November 2019	\$ 42.25	\$ 3.52	\$ 50.76	\$ 4.23	20.1%
December 2019	\$ 42.24	\$ 3.52	\$ 50.90	\$ 4.24	18.6%
January 2020	\$ 42.25	\$ 3.52	\$ 51.21	\$ 4.27	21.2%
February 2020	\$ 42.96	\$ 3.58	\$ 63.16	\$ 5.26	47.0%
March 2020	\$ 42.96	\$ 3.58	\$ 84.00	\$ 7.00	95.5%
April 2020	NA	NA	\$ 97.00	\$ 8.08	NA

43. From February 1, 2020, following Secretary Azar's declaration of an emergency, through April 7, 2020, the most recent date for which sales records are available, Quality King sold Lysol Spray to retailers in at least 432 separate transactions with prices ranging from \$5 to \$9.15 per can. These sales accounted for

at least 3,835 12-packs of Lysol, or 46,020 19-ounce cans (not including sales of other sizes of Lysol Spray).

44. Each time one of these 46,104 cans of Lysol was sold at retail for an inflated price – and each time a person bought any other Lysol product whose price Quality King had inflated – Quality King’s price-gouging caused injury to a consumer.

**FIRST CAUSE OF ACTION BY THE PEOPLE AGAINST
RESPONDENTS PURSUANT TO GENERAL BUSINESSES LAW 396-r:**

PRICE-GOUGING

45. The People repeat and re-allege paragraphs 1 through 44 as if fully set forth herein.

46. General Business Law Section 396-r(2), which prohibits price-gouging, states as follows:

During any abnormal disruption of the market for consumer goods . . . vital and necessary for the health, safety and welfare of consumers, no party within the chain of distribution of such consumer goods . . . shall sell or offer to sell any such goods . . . for an amount which represents an unconscionably excessive price. . . .

GBL 396-r(2).

47. Since at least January 31, 2020, New York and the United States generally have experienced abnormal disruptions of the market due to the coronavirus pandemic.

48. Lysol disinfectant products, including Lysol Spray and Lysol Wipes, are vital and necessary consumer goods.

49. Quality King is a party within the chain of distribution for Lysol disinfectant products.

50. Respondents have sold Lysol disinfectant products during this period of abnormal market disruption at unconscionably excessive prices.

51. Respondents have charged amounts for the sale of such products representing a gross disparity from the price at which the same product was sold immediately prior to the onset of the abnormal disruption of the market.

52. Respondents' prices are not the result of costs not within their control imposed upon them for the goods sold.

53. Accordingly, Respondents have engaged in price-gouging in violation of GBL 396-r.

**SECOND CAUSE OF ACTION BY THE PEOPLE AGAINST
RESPONDENTS PURSUANT TO EXECUTIVE LAW § 63(12):**

**REPEATED AND PERSISTENT ILLEGAL ACTS
IN THE FORM OF PRICE-GOUGING**

54. The People repeat and re-allege paragraphs 1 through 53 as if fully set forth herein.

55. Executive Law Section 63(12), which prohibits repeated and persistent illegal acts by business, states as follows:

Whenever any person shall engage in repeated . . . illegal acts or otherwise demonstrate persistent . . . illegality in the carrying on, conducting or transaction of business, the attorney general may apply, in the name of the people of the state of New York, to the supreme court of the state of New York, on notice of five days, for an order enjoining the continuance of such business activity or of any . . . illegal acts, directing restitution . . . , and the court may award the relief applied for or so much thereof as it may deem proper. . . .

Exec. L. § 63(12).

56. Respondents have engaged in price-gouging in violation of GBL 396-r.

57. Price-gouging is an illegal act under New York law.

58. Respondents have engaged in price-gouging on a repeated and/or persistent basis.

59. Accordingly, Respondents have engaged in repeated and persistent illegal acts in violation of Executive Law § 63(12).

PRAYER FOR RELIEF

WHEREFORE, the People of the State of New York respectfully request that the Court issue an order and judgment:

a. Permanently enjoining Respondents; their agents, trustees, employees, successors, heirs, and assigns; and any other person under their direction or control, whether acting individually or in concert with others, or through any corporate or other entity or device through which one or more of them may now or hereafter act or conduct business, from engaging in the illegal practices alleged herein;

b. Ordering Respondents to provide an accounting to the NYAG of all purchases and all sales to New York entities of all Lysol disinfectant products from November 1, 2019 to the present date, including but not limited to Lysol Disinfectant Spray and Lysol Disinfectant Wipes, including for each transaction the date, unit price, quantity, total amount bought or sold, invoice numbers, purchase order number, names and addresses of each seller or buyer, as appropriate, and other information as appropriate;

c. Ordering Respondents to pay full restitution to the NYAG equal to the amounts charged by Respondents for Lysol disinfectant products from January 31, 2020 to the present minus the median prices for the same products from November 2019 through January 2020;

d. Ordering Respondents to disgorge all profits from the illegal practices alleged herein;

e. Ordering Respondents to pay a civil penalty of \$25,000;

f. Awarding to the NYAG, pursuant to New York Civil Practice Law and Rules § 8303(a)(6), costs in the amount of \$2,000 against each Respondent; and

g. Granting such other and further relief as the Court deems just and proper.

Dated: May 27, 2020

Respectfully submitted,

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