

IN THE MATTER OF
NATIONWIDE INDUSTRIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket C-1356. Complaint, July 9, 1968—Decision, July 9, 1968

Consent order requiring four affiliated marketers of automotive products to cease misrepresenting that their products have been independently tested or approved by any Federal agency, and that their guarantees are unconditional.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Nationwide Industries, Inc., Nu Research & Development Company, Dealers Service Specialty Corporation and Konalrad Products, Inc., corporations, and James Romanow, Wilbur Baker, Albert J. Sowolsky (also known as Albert J. Scott) and David Sokoloff, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby

issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Nationwide Industries, Inc., Nu Research & Development Company, and Dealers Service Specialty Corporation are corporations organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with their principal office and place of business located at 4410 Holmesburg Avenue in the city of Philadelphia, State of Pennsylvania.

Respondent Konalrad Products, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located in the city of Beaverdam, State of Ohio.

Respondents James Romanow, Wilbur Baker, Albert J. Sowolsky (also known as Albert J. Scott) and David Sokoloff are officers of each of the said corporate respondents. They formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their address is 4410 Holmesburg Avenue in the city of Philadelphia, State of Pennsylvania.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of chemical sealers for automatic transmissions, automobile engines and power steering mechanisms, chemical carburetor cleaners and engine tuneups, motor oils and gas line additives and other chemical automotive products to retailers for resale to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their places of business in the States of Pennsylvania and Ohio to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products, the respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers and nationally circulated magazines, on their product containers,

product information sheets and other forms of promotional matter with respect to the use, performance, characteristics, testing, endorsement and guarantees of their products.

Typical and illustrative of the foregoing statements and representations but not all inclusive thereof are the following:

NU SEAL AUTOMATIC TRANSMISSION SEALER UNCONDITIONALLY GUARANTEED TO SEAL LEAKY TRANSMISSIONS OR YOUR MONEY BACK! . . . NU SEAL is a coagulant that forms its own pliable seal over the worn seal! Also seals minor housing cracks and line leaks, eliminates motor racing due to slipping clutches or lazy shifting. . . .

MOTOR TITE . . . SEALER AND CONDITIONER . . . developed to make car engines run better by sealing all leaks, forestalling future leaks, building compression, . . . SATISFACTION GUARANTEE FROM NATIONWIDE INDUSTRIES! . . .

NU SEAL POWER STEERING SEALER . . . Stops leakage from Power Steering Pumps . . . from Seals . . . from Reservoir and Cylinder and Hydraulic lines at the Fittings . . . Repairs to power steering units with this quality product are as permanent and pliable as if new seals had been installed. . . . FULLY GUARANTEED BY NATIONWIDE INDUSTRIES!

ALL PRODUCTS CERTIFIED & APPROVED BUREAU OF STANDARDS AMERICAN INSTITUTE OF SCIENCE.

* * * * *
SNAP POWER STEERING SEALER Unconditionally Guaranteed TO SEAL POWER STEERING LEAKS.

* * * * *
SNAP CARBURETOR CLEANER . . . dissolves and washes away the gum, sludge and varnish . . . inside your engine . . . while you drive!

* * * * *
REV 500 ENGINE TUNE-UP AND BOOSTER SHOT . . . Frees Sticking Hydraulic Valve Lifters, Valve and Rings—Prevents Sludge Formations—Prolongs Engine Life . . . Keeps Engines Clean and Quiet.

* * * * *
Mr. MOTOR . . . UNCONDITIONALLY GUARANTEED STOPS OIL BURNING PERMANENTLY! . . . Quiets valves and lifters—Lengthens engine life . . . Increases gas mileage . . . Increases compression . . . And Mr. MOTOR lasts 4 times longer! . . .

* * * * *
REV 500 GAS LINE ANTI-FREEZE . . . will keep the fuel system clean of carbon, gum and sludge.

PAR. 5. By and through the use of the above quoted statements and representations, and others of similar import and meaning but not specifically set out herein, the respondents represent and have represented, directly or by implication, that:

1. American Institute of Science is a bona fide, scientific testing laboratory fully staffed, equipped and competent to test

respondents' products and that said organization has tested respondents' products and substantiated the use and performance claims made therefor.

2. Said products have been certified and approved by an agency of the United States Government.

3. The products designated NU SEAL AUTOMATIC TRANSMISSION SEALER, Motor Tite and various other products are guaranteed to accomplish the performance results claimed or the purchaser's payment for such products will be refunded by respondents.

4. The products designated NU SEAL POWER STEERING SEALER, SNAP POWER STEERING SEALER and various other products are guaranteed without condition or limitation.

PAR. 6. In truth and in fact:

1. American Institute of Science is not a bona fide, scientific testing laboratory staffed, equipped or competent to test respondents' products and for this reason, the said organization has not properly tested any of respondents' products or adequately substantiated the use or performance claims made therefor.

2. None of respondents' products has been certified or approved by an agency or other branch of the United States Government.

3. Dissatisfied customers, seeking to obtain from respondents a refund of their payment for NU SEAL AUTOMATIC TRANSMISSION SEALER, Motor Tite or various other products are informed that they must return their sales receipt and empty container or container cap to respondents before a refund is made under the guarantee. Such requirements are not disclosed in the advertised guarantee.

Furthermore, in a substantial number of instances respondents have failed, refused or otherwise neglected to perform under the requirements of said guarantees.

4. Respondents' guarantees of NU SEAL POWER STEERING SEALER, SNAP POWER STEERING SEALER or various other products are not unconditional but are subject to limitations and conditions which are not revealed in the advertised guarantee.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. By and through the use of the aforesaid acts and practices, respondents place in the hands of jobbers, retailers, dealers and others the means and instrumentalities by and through which

they may mislead and deceive the public in the manner and as to the things herein alleged.

PAR. 8. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of chemical automotive products of the same general kind and nature as those sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said 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, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of 30 days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes

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the following jurisdictional findings, and enters the following order:

1. Respondents Nationwide Industries, Inc., Nu Research & Development Company, and Dealers Service Specialty Corporation are corporations organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with their office and principal place of business located at 4410 Holmesburg Avenue, in the city of Philadelphia, State of Pennsylvania.

Respondent Konalrad Products, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located in the city of Beaverdam, State of Ohio.

Respondents James Romanow, Wilbur Baker, Albert J. Sowolsky (also known as Albert J. Scott) and David Sokoloff are officers of said corporations and their address is 4410 Holmesburg Avenue, in the city of Philadelphia, State of Pennsylvania.

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

ORDER

It is ordered, That respondents Nationwide Industries, Inc., Nu Research & Development Company, Dealers Service Specialty Corporation and Konalrad Products, Inc., corporations, and their officers, and James Romanow, Wilbur Baker, Albert J. Sowolsky (also known as Albert J. Scott) and David Sokoloff, individually and as officers of said corporations and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of chemical sealers for automatic transmissions, automobile engines and power steering mechanisms, chemical carburetor cleaners and engine tune-ups, motor oil and gas line additives, other chemical automotive products or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, through the use or display of any words, emblem, seal, symbol, certification, or otherwise, that merchandise has been tested, approved or endorsed by the American Institute of Science or by any other organization: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish (a) that such testing organization is a bona fide scientific testing laboratory fully competent to test respond-

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ents' products, and (b) that such testing organization, by valid scientific methods, has in fact performed tests substantiating the accuracy of the representations made by respondents.

2. Representing, directly or by implication, that their products have been certified, approved or in any way endorsed by any Agency or other branch of the United States Government.

3. Representing, directly or by implication, that their products are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; or from failing promptly to perform all of their obligations under the represented and expressed terms of the guarantee.

4. Misrepresenting, in any manner, the testing or endorsement of their products or their product guarantees.

5. Furnishing or otherwise placing in the hands of others any means or instrumentality by and through which they may mislead or deceive the public in the manner or as to the things prohibited by this order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.
