

(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.

IN THE MATTER OF

WILLIAM MARTIN GURLEY TRADING AS
GURLEY INDUSTRIES, ETC.

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

Docket C-1730. Complaint, Apr. 17, 1970—Decision, Apr. 17, 1970

Consent order requiring Arkansas and California sellers of automotive parts including reconditioned spark plugs to cease misrepresenting the regular sales price of any item in any market area, savings available to purchasers, misrepresenting the testing of their spark plugs, deceptively guaranteeing them falsely claiming that their rebuilt plugs are equal to new ones, and failing to disclose the prior use of their reconditioned spark plugs.

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 William Martin Gurley, an individual, trading as Gurley Industries and as Gurley Oil Co. (GO-CO), and William Martin Gurley, individually, have violated the provisions of said Act, and C. L. Spark Plug National, Inc., and William Martin Gurley and John H. Frese, as officers of said corporation, being successors in interest to the reconditioned spark plug business of said Gurley Industries and Gurley Oil Co. (GO-CO), all hereinafter referred to as respondents, 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. Respondent William Martin Gurley, as an individual, is trading as Gurley Industries and Gurley Oil Co. (GO-CO). He

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formulates, directs and controls the acts and practices of the individually operated company including the acts and practices hereinafter set forth. His business address is 1000 South Eighth Street, West Memphis, Arkansas.

Respondent C. L. Spark Plug National, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 4000 Bluff, Corona, California.

William Martin Gurley and John H. Frese are officers of the corporate respondent, C. L. Spark Plug National, Inc. They formulate, direct and control, the acts and practices of the corporate respondent and their respective address is the same as that of the said corporation.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the operation of automobile service stations and in the sale of automotive products and in the reconditioning, labeling, packaging, offering for sale, sale and distribution of used spark plugs to the public and to jobbers and 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 reconditioned spark plugs, when sold, to be shipped from their place of business in the States of California and Arkansas 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 spark plugs, respondents have made, and are now making, numerous statements and representations on the labels and packages of said spark plugs, with respect to price, savings, guarantee, testing and reconditioning.

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

GROUP 1

VALUE
\$3.92

Sure Fire

10,000 MILE
GUARANTEE

TESTED AND
RECONDITIONED

SAVE
ON
GAS

SAVE
MONEY

SAVE
GAS

Fire Powered

2. reconditioned expressly for us.

PAR. 5. By and through the use of the above statements and representations and others of similar import and meaning, but not expressly set out herein, the respondents have represented, and are now representing, directly or by implication:

1. That the higher price amount accompanied by the word "... Value" or words of similar import, does not appreciably exceed the price at which substantial sales of the article are being made in the trade area where such representations are made; and the difference between the higher price and the corresponding lower sale price represents a saving to the purchaser;

2. By the words "10,000 mile Guarantee," and other words of similar import and meaning, that the merchandise referred to is guaranteed by the respondents in all respects unconditionally, without any limitation for the stated period of use;

3. That respondents' spark plugs have been tested;

4. By such statements as "Tested and reconditioned," "Save Gas," "10,000 mile Guarantee" and "Save Money" and other statements of similar import and meaning, that respondents' spark plugs have been reconditioned to the extent that said spark plugs will give performance equal to new, unused spark plugs.

5. In some instances by placing the word "reconditioned" in small print in an inconspicuous location on their package, and in conjunction with other words and phrases and the new appearance of said plugs, that their spark plugs are new, unused spark plugs.

PAR. 6. In truth and in fact:

1. The higher price amount, set out in connection with the word "... Value" did exceed the price at which substantial sales of the article were made in the trade areas where the representation was made; and purchasers of such merchandise did not save an amount equal to the difference between the higher price amount accompanied by the word "Value" and the lower sale price;

2. The items of merchandise described as "10,000 mile Guarantee" are not guaranteed by the respondents unconditionally without any limitation or without any limitation for the stated period of use as set forth on the package. In fact, the represented guarantee, if honored at all, will be honored, not by respondents, but only at the store where the purchase was made. The respondents also fail and neglect to set forth the identity of the guarantor, the manner in which the guarantee will be performed and such other limitations thereon or obligations on the part of the purchaser before the guarantor will fulfill the guarantee;

3. Respondents do not test their "reconditioned" spark plugs. The only "test" made is to visually inspect the spark plug to determine if the plug looks clean, the porcelain is not cracked and the protruding electrode is not broken. No standard test such as by firing under compression, etc., is performed;

4. Respondents do not recondition the used and discarded spark plugs, which they purchase from garages, filling stations, automobile dealers and junk dealers, to the extent that said used spark plugs will give performance equal to new unused spark plugs. The entire "reconditioning" operation consists merely of cleaning the spark plugs by dipping them in a chemical rust stripper and sand blasting some of them. No attempt is made to check for, repair, replace or reset any worn or defective part or to test any spark plug after reconditioning to insure proper performance of said spark plug;

5. Respondents spark plugs are not new, unused spark plugs.

PAR. 7. The invoices used by respondents in connection with the sale of their said spark plugs contain statements such as "Group 1 Plugs N," "Group 2 Plugs N," etc. No disclosure appears in the bodies of said invoices that the parts listed therein are used, rebuilt or reconditioned parts.

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 spark plugs of the same general kind and nature as those sold by respondents.

PAR. 9. 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 mislead and deceive the public in the manner and as to the things hereinabove alleged.

PAR. 10. 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' product by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of the 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

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and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent William Martin Gurley is an individual, trading as Gurley Industries and Gurley Oil Co. (GO-CO) and is existing and doing business under and by virtue of the laws of the State of Arkansas with his business address at 1000 South Eighth Street, West Memphis, Arkansas.

Respondent C. L. Spark Plug National, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 4000 Bluff, Corona, California.

Respondents William Martin Gurley and John H. Frese are officers of said corporation. They formulate, direct and control the policies, acts and practices of the said corporation and their respective address is the same as that of the said corporation.

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 William Martin Gurley, an individual, trading as Gurley Industries and as Gurley Oil Co. (GO-CO), and C. L. Spark Plug National, Inc., a corporation, and William Martin Gurley, individually and as an officer of said corporation, and John H. Frese, as an officer of said corporation, or under any other name or names, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the labeling, packaging, advertising, offering for sale, sale or distribution of spark plugs or any other product in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Value" or any other word or words of similar import or meaning to refer to any amount which is appreciably in excess of the highest price at which substantial sales of such merchandise have been made in the recent regular course of business in the trade areas where such representations are made and unless respondents have in good faith conducted a market survey which establishes the validity of such trade area prices and retain in their files true and correct copies thereof; or misrepresenting in any manner, the price at which such merchandise has been sold in the trade areas where such representations are made.

2. Falsely representing, in any manner, that savings are available to purchasers or prospective purchasers of respondents' merchandise; or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' merchandise at retail.

3. Representing, directly or by implication, that respondents' products are guaranteed for 10,000 miles or in any other manner, unless all the terms and conditions of the guarantee, including its nature and extent, the name and address of the guarantor, and the manner in which the guarantor will perform thereunder, are clearly and conspicuously disclosed in immediate conjunction therewith.

4. Representing, directly or by implication, that respondents' spark plugs or any other products have been tested unless such spark plugs or other products have in fact been subjected to such tests and testing procedures as will establish that each spark plug or other item will fully perform in the manner and to the extent, directly or impliedly, represented.

5. Representing, directly or by implication, that respondents' spark plugs have been reconditioned to the extent that they will give performance equal to new spark plugs, or misrepresenting, in any manner, the kind or extent of the rebuilding or reconditioning done on spark plugs or any other product.

6. Representing, directly or by implication, that any used product or product containing a used part is new; or failing clearly and conspicuously to disclose such prior use in all invoices and on packages, labels or display cards and in all advertising and sales promotional materials disseminated therefor;

7. Placing in the hands of others the means and instrumentalities by and through which they may mislead the public as to any of the matters and things prohibited in Paragraphs 1 through 6 inclusive.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may effect compliance arising out of the order.

It is further ordered, That 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.

Complaint

IN THE MATTER OF

VOEDISCH BROTHERS, INC., TRADING AS
FOUR SEASONS SPORTING GOODS, ET AL.

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

Docket C-1731. Complaint, Apr. 20, 1970—Decision, Apr. 20, 1970

Consent order requiring a Chicago, Ill., distributor of fishing tackle and accessories to cease misrepresenting the country of origin of any product and the strength of its fishing lines, preticketing its merchandise at a deceptively higher price than prevalent in any trade area, making false savings claims, and furnishing others means to deceive purchasers.

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 Voedisch Brothers, Inc., a corporation, trading as Four Seasons Sporting Goods, and Phillip Teitelbaum, individually and as an officer of said corporation, 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. Respondent, Voedisch Brothers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 1823 Milwaukee Avenue, Chicago, Illinois. Corporate respondent also trades as Four Seasons Sporting Goods.

Respondent, Phillip Teitelbaum, is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now and for some time last past, have been engaged in the advertising, offering for sale, sale and distribution of rods, reels, hooks, lines, sinkers, and various other items of fishing tackle and accessories to retailers for resale to the purchasing public.