

Consent order requiring a Cincinnati, Ohio, seller and distributor of Safe-T-Trac, auto stabilizers, to distributors and to the public to cease misrepresenting that its device will prevent skidding, help save lives, and functions as a shock absorber, that claims made for the device have been substantiated by scientific tests, and falsely guaranteeing its product; the respondent will further cease to use its multi-level marketing program to secure distributors for its product without informing them in full in writing of all facets of the program, and include a provision for cancellation of contracts within three days.

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 International Safe-T-Trac, Inc., a corporation, and Joey H. Sandow and Barney L. Sandow, individually and as officers 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. International Safe-T-Trac, 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 at 6802 Montgomery Road, Cincinnati (Silverton), Ohio.

Respondents Joey H. Sandow and Barney T. Sandow are individuals and are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including those hereinafter set forth. Their 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 Safe-T-Trac "auto-stabilizers" to distributors and to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have caused, and now cause, their said "auto-stabilizers" to be shipped from their place of business in the State of Ohio to purchasers thereof located in various other States of the United States and have caused, and now cause, said "auto-stabilizers" to be shipped from the manufacturer to various States of the United States other than the state of manufacturing. Also, respondents have caused, and now cause, monies, contracts and other commercial paper to be transmitted and received in commerce. Respondents, therefore, maintain, and at all times mentioned herein have maintained, a substantial course of trade 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 the Safe-T-Trac "auto-stabilizers," the respondents have made, and are now making, numerous statements and representations in newspaper and magazine advertisements and in oral promotional presentations with respect to the performance of the Safe-T-Trac "auto-stabilizer."

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

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Safe-T-Trac automatically helps pull the rear end of a skidding car into line, gives it added control, helps keep it going straight.

Safe-T-Trac action functions not only as a shock absorber, but also as an equalizing force itself, actually ironing out the bumps with horizontal and vertical momentum.

While in a curve, the Safe-T-Trac action applies Newton's Third Law of Motion to counteract skids: "For every action, there is an equal and opposite reaction."

Safe-T-Trac effectively counteracts the sudden lateral movement normally caused by panic stops, high speed blow-outs or sharp gusts of wind.

SAFE-T-TRAC, Safety is our business.

Anti-Skid Device, Increases Traction, Helps Prevent Skidding and Spin-outs, Decreases Swerving, Fishtailing and Vibration.

Lifetime Guaranty.

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, and by and through the use of the trade name "Safe-T-Trac," separately and in connection with the oral statements and film presentations to prospective purchasers and purchasers, respondents have represented, and are now representing, directly or by implication:

1. That the Safe-T-Trac "auto-stabilizer" is an effective safety device.

2. That the Safe-T-Trac "auto-stabilizer" is an anti-skid device which will increase traction, help prevent skidding, spin-outs, and decrease swerving, fishtailing and vibration.

3. That the Safe-T-Trac "auto-stabilizer" will help save lives.

4. That the Safe-T-Trac "auto-stabilizer" will automatically help pull the rear end of a skidding car into line, give the driver added control, help keep a skidding automobile going straight.

5. That the Safe-T-Trac "auto-stabilizer" action functions not only as a shock absorber, but also as an equalizing force itself, actually ironing out bumps with horizontal and vertical momentum.

6. That the Safe-T-Trac "auto-stabilizer" effectively counteracts the sudden lateral movement normally caused by panic stops, high speed blow-outs or sharp gusts of wind.

7. That the Safe-T-Trac "auto-stabilizer" performance representations have been substantiated by competent scientific tests or by authenticated, controlled and duly recorded tests.

8. That the Safe-T-Trac "auto-stabilizer" "Lifetime Guaranty" is an unconditional guaranty.

PAR. 6. In truth and in fact:

1. The Safe-T-Trac "auto-stabilizer" is not an effective safety device.

2. The Safe-T-Trac "auto-stabilizer" is not an anti-skid device which will increase traction, help prevent skidding, spin-outs, and decrease swerving, fishtailing and vibration.

3. The Safe-T-Trac "auto-stabilizer" will not help save lives.

4. The Safe-T-Trac "auto-stabilizer" does not automatically help pull the rear end of a skidding car into line, give the driver added control, or help keep the car going straight.

5. The Safe-T-Trac "auto-stabilizer" does not function as a shock absorber, and is not an equalizing force which will actually iron out the bumps with horizontal and vertical momentum.

6. The Safe-T-Trac "auto-stabilizer" will not effectively counteract the sudden lateral movement normally caused by panic stops, high speed blow-outs or sharp gusts of wind.

7. The Safe-T-Trac "auto-stabilizer" performance representations have not been substantiated by competent scientific tests or by authenticated, controlled and duly recorded tests.

8. The "Lifetime Guaranty" for the Safe-T-Trac "auto-stabilizer" is not unconditional.

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

PAR. 7. In the course and conduct of the respondents aforesaid business, and for the purpose of inducing the purchase of their "auto-stabilizers," the respondents have employed and are now employing a multi-level marketing program having four levels of investors (distributors). The levels are as follows:

(1) *Director*—To become a director one must either purchase 100 units at \$100 per unit for a total of \$10,000 or sell 100 units within a period of 30 days or less. The director recruits those below him and sells units to distributors and consumers.

(2) *Associate Director*—To become an associate director one must either purchase 30 units at \$149.50 per unit for a total of \$4485 or sell 30 units within a period of 30 days or less. The associate director recruits new participants at his own level and below, and sells units to distributors and consumers.

(3) *Dealer*—To become a dealer one must either purchase 10 units at \$179.50 per unit for a total of \$1795 or sell 10 units within a period of 30 days or less. The dealer sells units to associate dealers and to consumers.

(4) *Associate Dealer*—To become an associate dealer one must purchase one demonstration unit at \$289.50 and thereafter, can purchase units at \$219.50. The associate dealer sells units at retail for \$289.50 per unit.

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The multi-level marketing program also provides that each director is to receive a \$5 per unit override on all units purchased and paid for by other directors whom he recruits and a commission of \$1700 for recruiting a director. An associate director is to receive \$200 for recruiting an associate director and \$300 for recruiting a director. A dealer is to receive \$100 for recruiting a dealer, \$200 for recruiting an associate director, and \$300 for recruiting a director. An associate dealer is also to receive \$100 for recruiting a dealer, \$200 for recruiting an associate director, and \$300 for recruiting a director.

Respondents represent through oral and written statements to prospective purchasers that it is not difficult to sell Safe-T-Trac "auto-stabilizers" and/or distributorships and thereby achieve high levels of income. Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

1. If a director recruits two (2) associate directors and each of those two sell eighty (80) units per month, the director will earn \$7920 per month.
2. If an associate director recruits five (5) dealers and each of those five sell 20 units per month, the associate director will earn \$3000 per month.
3. If a dealer recruits ten (10) associate dealers and each of those ten sell one unit per week, the dealer will earn \$1600 per month.
4. If an associate dealer recruits one (1) associate dealer every week the associate dealer making the appointments will earn \$280 per month.

PAR. 8. Respondents' multi-level marketing program contemplates a virtually endless recruiting of participants in the sales program. The program as represented by respondents contemplates the participation of approximately one hundred (100) recruits operating under each director. Further, additional participants must increase progressively to insure the participants the represented financial gains while the overall number of potential investors remain relatively constant. Thus, the participant may be, and in a substantial number of instances will be, unable to find additional investors in a given community or geographical area by the time he enters respondents' merchandising program. This comes about because the recruiting of participants who come into the program at an earlier stage has already exhausted the number of prospective participants. As to the individual participant, therefore, respondents' program must of necessity ultimately collapse when the market for distributors becomes saturated.

Although some participants in respondents' multi-level merchandising program may realize a profit, all participants do not have the

potentiality of receiving sums of money equal to or greater than those described in Paragraph Seven through recruiting other participants and through finder's fees, commissions, overrides, and other compensation arising out of the sale of respondents' products or the recruitment of other distributors by other participants in the program. As a matter of fact, some participants in the program will receive little or no return on their investment.

For the foregoing reasons, respondents' multi-level merchandising program is organized and operated in such a manner that the realization of profit by any participant contemplates, and is necessarily predicated upon, the exploitation of others who have virtually no chance of receiving a return on their investment and who have been induced to participate by misrepresentations as to potential earnings. Therefore, the use by respondents of the aforesaid program in connection with the sale of their merchandise was and is an unfair act and practice, and was and is false, misleading and deceptive.

PAR. 9. In the course and conduct of their business, and for the purpose of inducing participation by others in their marketing program and of selling their merchandise, by and through statements and oral representations, and by means of brochures and other written material respondents represent, and have represented, directly or by implication that:

1. Participants in their merchandising program have a reasonable expectancy of receiving profits or earnings fully equal to or greater than those described in Paragraph Seven herein by recruiting other distributors or subdistributors into their program and receiving commissions on their own sales or the sales or recruiting of others.

2. It is not difficult for investors to recruit and retain persons who will invest in the program as distributors and as sales personnel to sell respondents' products.

PAR. 10. In truth and in fact:

1. Most participants in respondents' multi-level program do not have a reasonable expectancy of receiving profits or earnings in the form of finder's fees, commissions, overrides or other compensation fully equal to or greater than those described in Paragraph Seven herein. In fact, most participants will receive little or no return on their investment.

2. It is difficult, and becomes increasingly difficult under respondents' continually expanding multi-level marketing system, to recruit and retain persons who will invest in respondents' program as distributors and/or as sales personnel to sell respondents' products.

Therefore, the above-described representations are false, misleading and deceptive.

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PAR. 11. Respondents' merchandising program is in the nature of a lottery in that participants are induced to invest substantial sums of money on the possibility that by the activities and efforts of others, over whom they exercise no control or direction, they will receive the profits described in Paragraph Seven herein. The realization of such financial gain is not dependent on the skill and effort of the individual participant, but is the result of elements of chance including the number of prior participants and the degree of saturation of the market which exists when the participant is induced to make his investment.

The use by respondents of a multilevel program, which is in the nature of a lottery, is contrary to the established public policy of the United States and is an unfair act and practice.

PAR. 12. 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 engaged in the business of selling stabilizer, traction, and other safety devices and equipment.

PAR. 13. 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. 14. 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 issued its complaint on November 12, 1970, charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with a copy of that complaint; and

The Commission having duly determined upon motion certified to the Commission that, in the circumstances presented, the public interest would be served by waiver here of the provision of Section 2.34(d) of its rules that the consent order procedure shall not be available after issuance of complaint; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the 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 set forth in such complaint, and waivers and 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 thirty (30) days and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in such rule, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent International Safe-T-Trac, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio. The corporation is no longer doing business but it has never been dissolved. The corporation can be reached in care of Barney L. Sandow, 618 Claymount Street, Ballwin, Missouri.

Respondents Joey H. Sandow and Barney L. Sandow are officers of said corporation. They formulated, directed and controlled the policies, acts and practices of said corporation and the addresses of Joey H. Sandow and Barney L. Sandow are respectively, 8690 Glenburny Avenue, Cincinnati, Ohio, and 618 Claymount Street, Ballwin, Missouri.

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 International Safe-T-Trac, Inc., a corporation, and its officers, and Joey H. Sandow and Barney L. Sandow, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of the device designated Safe-T-Trac or any other device of substantially the same construction, design or operation, do forthwith cease and desist from:

1. Representing, directly or by implication, that said device

when installed or used in any manner in the operation of a motor vehicle:

- (a) Is an effective safety device.
 - (b) Is an anti-skid device, will increase traction, help prevent skidding, spin-outs, or decrease swerving, fishtailing or vibration.
 - (c) Will help save lives.
 - (d) Will automatically help pull the rear end of a skidding car into line, give the driver added control, or help keep the automobile going straight.
 - (e) Functions as a shock absorber, or as an equalizing force, or irons out the bumps with horizontal and vertical momentum.
 - (f) Counteracts the sudden lateral movement normally caused by panic stops, high speed blowouts or sharp gusts of wind.
2. Using the trade name "Safe-T-Trac" or any other word, term or phrase of similar import or meaning to describe or refer to said device.
 3. Representing, directly or by implication, that performance representations of said device have been substantiated by competent scientific tests or by authenticated, controlled and duly recorded tests; or falsely representing, in any manner, the extent, kind, character or results of any scientific tests performed on any of said products.
 4. Misrepresenting, in any manner, the performance or functioning of said device or the safety to human life provided by any automotive devices.
 5. Representing, directly or by implication, that any products are "unconditionally guaranteed" unless there are in fact no terms, conditions or limitations attached thereto; or that any products are guaranteed in any manner without clearly and conspicuously setting out in immediate connection therewith the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder.

It is further ordered, That respondents International Safe-T-Trac, Inc., a corporation, and its officers, and Joey H. Sandow and Barney L. Sandow, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of any products or of distributorships, franchises, licenses or marketing agreements with respect thereto,

in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Operating or participating in the operation of any multi-level marketing program wherein the financial gains to the participants are dependent in any manner upon the continued, successive recruitment of other participants.

2. Offering to pay, paying or authorizing the payment of any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other consideration to any participant in respondents' multi-level marketing program for the solicitation or recruitment of other participants therein.

3. Offering to pay, paying or authorizing payment of any bonus, override, commission, cross-commission, discount, rebate, dividend or other consideration to any person, firm or corporation in connection with the sale of said products, or distributorships under respondents' multi-level marketing program unless such person, firm or corporation performs a bona fide and essential supervisory, distributive, selling or soliciting function in the sale and delivery of such products to the ultimate consumer.

4. Requiring prospective participants or participants in said program to purchase said products or pay any consideration, other than payment for necessary sales materials, in order to participate in any manner therein.

5. Using any multi-level marketing program, either directly or indirectly:

- (a) Wherein any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other compensation or profit inuring to participants therein is dependent on the element of chance dominating over the skill or judgment of the participants; or

- (b) Wherein no amount of judgment or skill exercised by the participant has any appreciable effect upon any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other compensation or profits which the participant may receive; or

- (c) Wherein the participant is without that degree of control over the operation of such plan as to enable him substantially to effect the amount of any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other compensation or profit which he may receive or be entitled to receive.

6. Using any multi-level marketing program which fails to:

(a) Inform orally all participants in respondents' multi-level marketing program and to provide in writing in all contracts of participation that the contract may be cancelled for any reason by notification to respondents in writing within three (3) business days from the date of execution of such contract.

(b) Refund immediately all monies to (1) customers who have requested contract cancellation in writing within three (3) business days from the execution thereof, and (2) customers showing that respondents' contract solicitations or performance were attended by or involved violation of any of the provisions of this order: *Provided, however*, That subpart (2) hereof shall not apply to such contracts entered into before the date of this order, nor shall the payments of refunds hereunder be construed as an admission that this order or any part thereof has been violated.

7. Representing, directly or by implication, that participants in any multi-level marketing program will earn or receive any stated or gross or net amount of earnings or profits; or representing, in any manner, the past earnings of participants unless in fact the past earnings represented are those of a substantial number of participants in the community or geographical area in which such representations are made and accurately reflect the average earnings of these participants under circumstances similar to those of the participant to whom the representation is made.

8. Representing, directly or by implication, that it is not difficult for participants to recruit or retain persons to invest in any multi-level marketing program as distributors or as sales personnel to sell said products.

9. Failing to deliver a copy of this order to cease and desist to all present and future distributors, salesmen or other persons engaged in the sale or distribution of any products through the use of a multi-level marketing program, and securing from each such distributor, salesman or other person similarly involved a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, 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 corporation which may affect compliance obligations arising out of this order.

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It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its 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.