

Complaint

94 F.T.C.

IN THE MATTER OF
ADMARKETING, INC.

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

Docket C-2992. Complaint, Sept. 25, 1979 — Decision, Sept. 25, 1979

This consent order, among other things, requires a Beverly Hills, Calif. advertising agency engaged in the advertising and sale of a product known, among other names, as the G.R. Valve to cease from representing, without reliable substantiation, that installing the G.R. Valve or any substantially similar automobile retrofit device in a motor vehicle will result in fuel economy improvement. The firm is further prohibited from misrepresenting the performance, efficacy or usefulness of any energy consumption or energy saving characteristic of an automobile retrofit device; or the purpose, contents or conclusions of tests or surveys relating to such characteristic. The order additionally requires respondent to identify and present to its client, in writing, every representation contained in each advertisement which pertains to an energy consumption or energy saving characteristic of the advertised product.

Appearances

For the Commission: *Laurence M. Kahn.*

For the respondent: *Ronald J. Mandell*, Los Angeles, Calif.

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 Admarketing, Inc., a corporation, hereinafter referred to as "respondent," having violated the provisions of the 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 Admarketing, Inc. is a corporation organized and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 8383 Wilshire Boulevard, Beverly Hills, California.

PAR. 2. Respondent, as advertising agency for C.I. Energy Development, Inc., has been engaged in the advertising of a product variously known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names, (hereinafter "product") which product is advertised to be a means of improving fuel economy in automobiles.

Said product is an automobile retrofit device as "automobile retrofit device" is defined in § 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. 2011. Respondent, in connection with the advertising of said product has disseminated, published and distributed advertisements and promotional material for the purpose of promoting the sale of said product.

PAR. 3. In the course and conduct of its said business, respondent has disseminated and caused the dissemination of a certain advertisement for said product by means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, including placement of this advertisement through television stations with sufficient power to broadcast across state lines and into the District of Columbia; and has disseminated and caused the dissemination of this advertisement for said product in the aforesaid media, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said product in commerce.

PAR. 4. Respondent's advertisement is identified as Exhibit A and attached hereto.

PAR. 5. Through the use of the advertisement referred to in Paragraph four, respondent represented directly or by implication that

- a. the G.R. Valve when installed in a typical automobile will significantly improve fuel economy;
- b. a typical driver can ordinarily obtain, under normal driving conditions, a fuel economy improvement which will approximate or equal twenty-eight per cent when the G.R. Valve is installed in his/her automobile;
- c. competent scientific tests for fuel economy of automobiles in which the G.R. Valve has been installed prove the fuel economy claims made for the G.R. Valve;

PAR. 6. At the time respondent made the representations alleged in Paragraph five of the complaint, it did not possess and rely upon a reasonable basis for such representations. Therefore, said advertisement is deceptive, misleading, or unfair.

PAR. 7. In truth and in fact, contrary to respondent's representations in Paragraph five:

- a. the G.R. Valve when installed in a typical automobile will not significantly improve fuel economy;
- b. a typical driver cannot ordinarily obtain under normal driving conditions a fuel economy improvement which will approximate or

equal twenty-eight per cent when the G.R. Valve is installed in his/her automobile;

c. no competent scientific tests for fuel economy of automobiles in which the G.R. Valve has been installed prove the fuel economy claims made for the G.R. Valve;

Therefore, said advertisement is deceptive, misleading, or unfair.

PAR. 8. Exhibit A represents, directly and by implication, that respondent had a reasonable basis for making, at the time they were made, the representations alleged in Paragraph five. In truth and in fact, respondent had no reasonable basis for such representations. Therefore, said advertisement is deceptive, misleading, or unfair.

PAR. 9. In the course and conduct of its business, and at all times mentioned herein, respondent has been and now is, in substantial competition in or affecting commerce with other advertising agencies.

PAR. 10. The use by respondent of the aforesaid unfair or deceptive representations and the dissemination of the aforesaid false advertisement has had, and now has, the capacity and tendency to mislead members of the consuming public into the erroneous and mistaken belief that said representations were and are true and into the purchase of substantial quantities of products advertised by respondent and sold by C.I. Energy Development, Inc. by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondent, as herein alleged, including the dissemination of the aforesaid false advertisement, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute, unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act.

(frame "B" only) **Ex. A**

TO PUT THE GRRRRR IN YOUR CAR. CARS
TESTED WITH G.R. VALVES IMPROVE THEIR
GAS MILEAGE

2 A/B

IN THESE DAYS OF RISING GAS PRICES
AND REDUCED AUTOMOTIVE PERFORMANCE,
WE INTRODUCE THE G.R. VALVE.

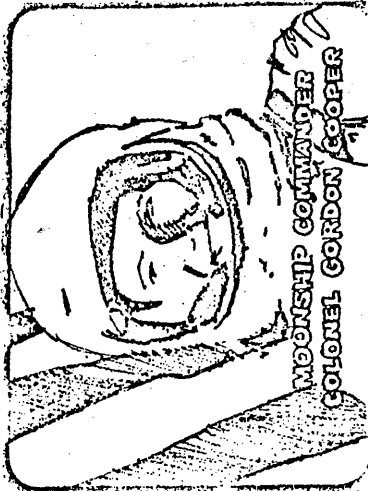
1 A/B

Spec. 2

FEDERAL TRADE COMMISSION DECISIONS

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AND IT'S A FACT. THE G.R. VALVE IS A
GO SYSTEM.

4A



UP TO 284

3A/B

SPEC 2

10 5

**UP TO \$150
SAVINGS PER YEAR**



1986 1987

AND SAVE UP TO \$150 DOLLARS PER YEAR

(35)

**UP TO 28%
MORE MILEAGE**



1986 1987

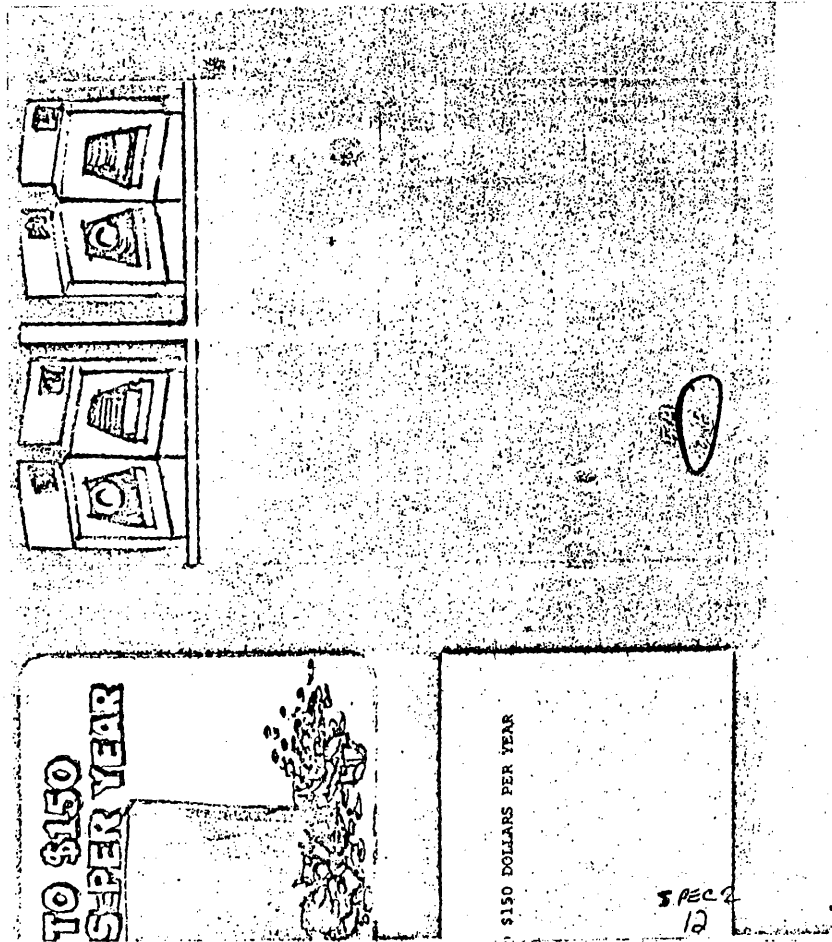
7 cars tested by J.D. Power & Associates a leading California university ranked in mileage increases of 14% to 28%

THAT'S RIGHT. GET UP TO 28% MORE
MILEAGE

(46)

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DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of such agreement is for settlement purposes only and does not constitute an admission by respondent 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 respondent has 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 sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Admarketing, 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 at 8383 Wilshire Boulevard, Beverly Hills, California.

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

ORDER

PART I

It is ordered, That respondent Admarketing, Inc., a corporation, its successors and assigns, either jointly or individually, and its officers, agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of the automobile retrofit device, variously known as the G.R. Valve, the Turbo-

Dyne Energy Chamber, and by other names, or of any other automobile retrofit device, as "automobile retrofit device" is defined in § 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. 2011, having substantially similar properties, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that the automobile retrofit device variously known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names, or any other automobile retrofit device having substantially similar properties, will or may result in fuel economy improvement when installed in an automobile, truck, recreational vehicle, or other motor vehicle.

PART II

It is further ordered, That respondent, its successors and assigns, either jointly or individually, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of any product in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- a. representing, directly or by implication, any energy consumption or energy saving characteristic of such product unless, at the time of making the representation, respondent has exercised due care to assure itself that competent scientific evidence substantiates the representation;
- b. misrepresenting in any manner the purpose, content, or conclusion of any test or survey pertaining to any energy consumption or energy saving characteristic of such product;
- c. misrepresenting in any manner the performance, efficacy, capacity, or usefulness of any energy consumption or energy saving characteristic of such product;
- d. failing to identify in writing and to present to its client, for each advertisement, any direct and any implied representations contained therein pertaining to any energy consumption or energy saving characteristic of such product.

PART III

It is further ordered, That respondent, its successors and assigns, either jointly or individually, and its officers, agents, representatives and employees directly or through any connection with the advertising, offering for sale, sale or distribution of any product in or

affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain the following accurate records which may be inspected by Commission staff members upon fifteen (15) days' notice: copies of and dissemination schedules for all advertisements, sales promotional materials and post-purchase materials; documents demonstrating compliance with Part II(d) of this order; documents which substantiate or which contradict any claim, made directly or by implication concerning any energy consumption or energy saving characteristic of such product, which is a part of the advertising, sales promotional material, or post-purchase materials disseminated by respondent directly or through any business entity. Such records shall be retained by respondent for a period of three (3) years from the last date any such advertising, sales promotional or post-purchase materials were disseminated.

PART IV

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives, or employees who are engaged in the preparation and placement of advertisements.

PART V

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to the effective date of 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 the order.

PART VI

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

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IN THE MATTER OF

LEROY GORDON COOPER, JR. a/k/a GORDON COOPER

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-2993. Complaint, Sept. 25, 1979 — Decision, Sept. 25, 1979*

This consent order, among other things, requires an individual from Encino, Calif. engaged in advertising, selling and endorsing a product known, among other names, as the G.R. Valve, to cease representing, without substantiation, that installing the G.R. Valve or any substantially similar automobile retrofit device in a motor vehicle will result in fuel economy improvement. The order further prohibits respondent from using or providing any endorsement or testimonial which has not been properly authorized or which contains unsubstantiated representations; and bars him from misrepresenting an endorser's expertise in a field of knowledge, and the conclusions of tests or surveys relating to the performance of a product or service. Additionally, the order requires that advertising disclose any material economic interest in the sale of a product or service that may exist between endorser and marketer of such product or service.

*Appearances*For the Commission: *Laurence M. Kahn.*For the respondent: *Murray Lertzman, Beverly Hills, Calif.*

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 Gordon Cooper, an individual, hereinafter referred to as "respondent," having violated the provisions of the 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 Gordon Cooper is an individual whose address is 5011 Woodley Ave., Encino, California and is a former N.A.S.A. astronaut.

PAR. 2. Respondent, in conjunction with Dan Mar Products, Inc., a California corporation, RR International, Inc., a Delaware corporation, C.I. Energy Development, Inc., a California corporation, and American Consumer, Inc., a Pennsylvania corporation, has been and is now engaged in the marketing and advertising of a product variously known as the G.R. Valve, the Turbo-Dyne Energy Cham-