

## IN THE MATTER OF

## SUN REFINING AND MARKETING COMPANY

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF  
THE FEDERAL TRADE COMMISSION ACT*Docket C-3145. Complaint, Oct. 11, 1984—Decision, Oct. 11, 1984*

This consent order requires a Philadelphia, Pa. corporation, among other things, to honor the lifetime warranty on its "True Blue Lifetime Battery" ("TBLT"). The company is required to notify consumers who received a replacement battery without a lifetime warranty, that their original lifetime warranty rights would be reinstated. Further, when fulfilling warranty obligations, the company is required to provide replacement batteries that have the same technical and performance characteristics as the TBLT battery. The order also requires the firm to notify its dealers and distributors that it is reinstating the TBLT lifetime warranty and provide them with instructions for honoring the warranty.

*Appearance*

For the Commission: *Lemuel W. Dowdy* and *Rosemary Rosso*.

For the respondent: *E. Henneberry, Howrey & Simon*, Washington, D.C.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Sun Refining and Marketing Company, a corporation, hereinafter sometimes referred to as respondent, has 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 Sun Refining and Marketing Company is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania with its office and principal place of business located at 1801 Market Street, Philadelphia, Pennsylvania

PAR. 2. Respondent is and has been engaged in the advertising, offering for sale, sale and distribution of automotive batteries as well as other consumer products.

PAR. 3. In the course and conduct of its business, respondent causes and has caused its automotive batteries and other consumer products

to be shipped to various states for sale to the public. For the purpose of inducing the purchase of its automotive batteries by the consuming public, and in a manner likely to induce the purchase of said products in commerce, respondent has disseminated and has caused the dissemination of certain advertisements and promotional materials through various means, including magazines and newspapers of national circulation, television broadcasts transmitted by television stations located in various states and having sufficient power to carry such broadcasts across state lines, and has distributed promotional materials through the use of the U.S. mail. Respondent, at all times mentioned herein, has maintained a substantial course of business, including the acts and practices hereinafter set forth which are in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent sold or distributed approximately 281,000 automotive batteries with the brand name True Blue Lifetime Battery during the years 1975 through 1979. Each True Blue Lifetime Battery which respondent sold or distributed was accompanied by a written warranty.

PAR. 5. The warranties granted and disseminated to purchasers of respondent's True Blue Lifetime Battery were designated as a "Full Lifetime Warranty" or a "Lifetime Battery Warranty." Typical and illustrative of said warranties is Exhibit A attached hereto.

PAR. 6. In the further course and conduct of its aforesaid business and for the purpose of inducing the public to purchase respondent's True Blue Lifetime Battery, respondent has distributed advertising brochures and aired television advertisements which describe the True Blue Lifetime Battery as a battery that is sold with a full lifetime warranty. Typical and illustrative of said advertisements is Exhibit B attached hereto.

PAR. 7. By and through the acts, practices, statements and representations alleged in Paragraphs Two through Six above, respondent has represented, expressly or by implication, that the "Full Lifetime Warranty" and the "Lifetime Battery Warranty" obligate respondent to provide continuous free replacements for any battery that fails to accept and hold a charge as long as the purchaser owns the automobile in which the original True Blue Lifetime Battery was installed.

PAR. 8. In truth and in fact, respondent has not fully performed its obligations under the "Full Lifetime Warranty" and the "Lifetime Battery Warranty" as described in Paragraph Seven above. Beginning no later than July 15, 1980 respondent has implemented and is implementing a policy of refusing to provide continuous free replacements for any battery that fails to accept and hold a charge as long as the purchaser owns the automobile in which the original True Blue

Lifetime Battery was installed. Pursuant to this policy, respondent has offered and is offering the following options to purchasers of True Blue Lifetime Batteries when they seek warranty service:

1. Replacement with a battery of like grade and size but with warranty coverage limited to approximately fifty (50) months from the time of replacement; or
2. Refund of the original purchase price of the True Blue Lifetime Battery as indicated on the proof of purchase.

If these two options were or are unacceptable, purchasers are told to contact the Manager of Customer Relations for respondent. Pursuant to this policy, consumers were not and are not given the option of retaining the warranty rights described in Paragraph Seven above. Thus, a substantial number of purchasers of the True Blue Lifetime Battery have received or are receiving less warranty coverage than that which respondent was obligated to provide under the terms of the written warranty which was provided to purchasers at the time of purchase.

PAR. 9. Respondent's actions described above have thus caused substantial and ongoing injury to respondent's customers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers.

PAR. 10. The acts and practices of respondent as alleged herein were and are all to the prejudice and injury of the public and constitute unfair acts or practices in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

## EXHIBIT A



MAIL THIS CARD  
IN AN ENVELOPE

TO:

TRUE BLUE BATTERY HEADQUARTERS

1608 Walnut Street

Philadelphia, PA 19103

ATTENTION MR CARL J JENSEN

SER. NO 47413

Please return to:

C. B. Chace

22/1845

U.S. Pat. 3,767,038

**TRUE BLUE**

MAINTENANCE FREE

MARKETED BY

SER. NO. 47413

**SUNMARK INDUSTRIES**

PHILADELPHIA, PA 19101

### LIFETIME BATTERY WARRANTY CERTIFICATE

In the event the TRUE BLUE Lifetime Warranted battery described on the reverse side of this Certificate becomes unserviceable in NON commercial passenger car use, the battery will be REPLACED AT NO CHARGE subject to the following conditions:

1. This Lifetime Warranty is not transferable and applies only so long as the original battery purchaser owns the specific automobile in which the subject battery was installed and provided the battery remains in that car.

2. Free replacement will be made only if the subject battery cannot accept and hold a charge.

3. This certificate MUST BE PRESENTED at the time a free replacement battery is applied for.

VOID IF NOT MAILED WITHIN 30 DAYS

The replacement battery will be of the same grade and group size.

4. When TRUE BLUE Lifetime batteries are used in commercial type service the standard BATTERY WARRANTY AND ADJUSTMENT PROCEDURE will apply.

5. The above Lifetime Warranty will be honored by all participating Sunoco/DX dealers.

#### LIMITATIONS

Failure in service due to fire, wreckage, explosion, freezing, abuse or neglect or the use of a battery of a group size smaller than that of the battery installed by the manufacturer as original equipment is not covered by the Lifetime Warranty.

VALID ONLY IN U.S.A.

## EXHIBIT B

**OUR NEW TRUE BLUE.  
SUNOCO WILL STAND  
BEHIND IT FOR AS LONG  
AS YOU OWN YOUR CAR.**



Suggested retail price

**\$44.95**

To help you hold onto your car, we give you a battery you can hold onto: our True Blue with the Full Lifetime Warranty.\*

This battery is so good, Sunoco stands behind it for as long as you own your car. If it ever fails to hold a charge for you in your present car, Sunoco will replace it free with proof of purchase. Just make sure it hasn't been damaged by accident or abuse.

As long as you sit behind your wheel, we'll stand behind our battery.

\*Commercial and marine use excluded.

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of Sun Refining and Marketing Company and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, 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 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 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 Sun Refining and Marketing Company is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at 1801 Market Street, 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 respondent, and the proceeding is in the public interest.

## ORDER

For purposes of this order, the following definitions shall apply:

A. *Lifetime Warranty*—A warranty which obligates respondent to provide continuous free replacements for any battery that fails to accept and hold a charge as long as the purchaser owns the vehicle in which the original battery was installed.

B. *TBLT battery*—A battery sold under the brand name "True Blue

Lifetime Battery" and which carried a warranty entitled "Lifetime Battery Warranty" or "Full Lifetime Warranty."

## I

*It is ordered,* That respondent Sun Refining and Marketing Company, a corporation, its successors and assigns, and its officers, representatives, agents 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 automotive battery in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Failing to perform any written warranty obligation under the "Lifetime Battery Warranty" or the "Full Lifetime Warranty" or any other warranty offering continuous replacements for a failed battery and from failing to replace any such battery under any such warranty if it has failed while the purchaser owns the car in which the original battery was installed;

*Provided,* that nothing in this order, including Part II shall prevent respondent from requesting purchasers of batteries carrying a "Lifetime Battery Warranty" or a "Full Lifetime Warranty" or any other warranty offering continuous replacements for failed batteries to agree to a modification of the warranty so long as: (1) the purchasers are notified in writing that a modification of the written warranty terms is being sought; (2) the purchasers are notified that they have the option of not agreeing to the modification and may continue with existing warranty coverage if they desire (such option shall be stated clearly and conspicuously in the same notification that informs the purchasers that a modification is being sought); (3) the purchasers are notified of all changes in warranty coverage that would occur should the modification be accepted, including, but not limited to, changes in warranty duration, changes in what respondent as warrantor will do in the event of a defect in or failure of the warranted product, and changes in what items or services the purchasers must pay for or provide or which the warrantor will not pay for or provide. No modification of the terms of any such warranty shall take effect unless and until the purchaser agrees in writing to such modification.

## II

*It is further ordered,* That:

A. Respondent, its successors and assigns, shall ascertain the name

and address of each consumer who, according to the company's warranty files:

1. purchased a TBLT battery; and
2. replaced said battery (when the battery failed to accept and hold charges) with a battery of respondent that did not carry a lifetime warranty.

B. Within thirty (30) days after the date of service of this order, respondent, its successors and assigns, shall mail, by first class mail, address correction requested, to each consumer identified in Part II.

A. of this order:

1. a notice (Attachment A of this order) that respondent, its successors and assigns, is reinstating the original lifetime warranty for consumers who still own the vehicle in which the original TBLT battery was installed; and
2. a self-addressed stamped post card (Attachment B of this order) which requests that the consumer provide information which will be used to determine whether he or she still owns the vehicle in which the original TBLT battery was installed.

The front of the envelope used for each such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

C. Within thirty (30) days after receiving each such post card as described in Part II. B. 2 of this order indicating that the consumer still owns the vehicle in which the original TBLT battery was installed and that the model year of the vehicle is 1980 or earlier, respondent, its successors and assigns, shall mail, by first class mail, with a cover letter (Attachment C of this order), a lifetime warranty certificate that, as long as the consumer owns the vehicle in which the original battery was installed, may be used to obtain a free battery to replace any battery that fails to accept and hold a charge. The front of the envelope used for each such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

D. For each consumer who was sent a notice and a post card pursuant to Part II. B. above, but whose notice was returned by the U.S. Postal Service for any reason, respondent, its successors and assigns, shall within sixty (60) days after the mailing pursuant to Part II. B:

1. search its credit card files and other records to obtain a current address for such consumer; and
2. re-mail to such current address, by first class mail, that notice and post card.

The front of the envelope used for each such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

E. Within thirty (30) days after receiving any post card mailed pursuant to Part II. D. 2 indicating that the consumer still owns the vehicle in which the original TBLT battery was installed and that the model year of the vehicle is 1980 or earlier, respondent, its successors and assigns, shall mail, by first class mail, with a cover letter (Attachment C of this order), a lifetime warranty certificate that, as long as the consumer owns the vehicle in which the original battery was installed, may be used to obtain a free battery to replace any battery that fails to accept and hold a charge. The front of the envelope used for each such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

F. For each consumer who presents evidence that:

1. he or she purchased a TBLT battery;
2. when that TBLT battery failed, it was replaced with one of respondent's batteries that did not carry a lifetime warranty; and
3. he or she still owns the vehicle in which the original TBLT battery was installed,

respondent, its successors and assigns, within thirty (30) days after receiving such evidence, shall mail by first class mail to that consumer:

1. a notice that respondent (or its successors and assigns) is reinstating the original lifetime warranty (such notification shall be stated in clear and conspicuous language); and
2. a lifetime warranty certificate that as long as the consumer owns the vehicle in which the original battery was installed may be used to obtain a free battery to replace any battery that fails to accept and hold a charge.

The front of the envelope used for such mailing shall clearly and conspicuously state: "IMPORTANT WARRANTY INFORMATION ENCLOSED."

### III

*It is further ordered, That:*

A. If respondent, its successors and assigns replaces any failed battery as required by Parts I and II of this order, the replacement battery shall be at least of the same grade and group size as the

original battery, meaning a battery having at least the same technical and performance characteristics as the original battery.

B. Within thirty (30) days after the date of service of this order, respondent shall provide written notice to every dealer and distributor who sells respondent's automotive batteries, stating that the lifetime warranty has been reinstated for purchasers of TBLT batteries and shall apply to replacement batteries installed after date of service of this order and giving a copy of the notices sent to consumers pursuant to Part II of this order and a set of instructions and procedures to be observed by respondent's dealers and distributors who are called upon to replace batteries having a lifetime warranty.

#### IV

*It is further ordered, That:*

A. Respondent shall notify the Commission at least thirty (30) days prior to any proposed change such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of Sunmark Industries, or any change in the corporation which may affect compliance obligations arising out of the order.

B. Respondent, for a period of three (3) years from the date of service of this order, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying all records reflecting respondent's compliance with this order, including the following:

1. copies of the notices required by Paragraphs B, C and D of Part II of this order, and all responses to such notices; and
2. copies of the notices required by Paragraph B of Part III of this order; and
3. records concerning the disposition of request from consumers for service, repair or money adjustments covered by this order pursuant to any lifetime warranty.

C. Within one-hundred and twenty (120) days after the date of service of this order, respondent shall file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

#### ATTACHMENT A

##### NOTICE TO FORMER TRUE BLUE LIFETIME BATTERY OWNERS

As part of an agreement with the Federal Trade Commission, Sun Refining and

Marketing Company (Sunoco) is offering lifetime warranty certificates to eligible purchasers of True Blue Lifetime (TBLT) batteries. If you qualify for a certificate, you will be able to get continuous free replacements for your battery whenever it fails to accept and hold a charge. You will be able to get free replacement batteries as long as you own the car in which the TBLT battery was first installed.

To qualify for the lifetime warranty certificate, you must have purchased a TBLT battery that failed and was replaced by a Sunoco battery that did not have a lifetime warranty. Our records indicate that this happened to you. In addition, you must still own the car in which the TBLT battery was first installed.

If you meet these qualifications, please complete the attached postage-paid card and return it. Please allow 45 days for delivery of your certificate. Remember, *the only way* to receive a certificate is to complete and return the attached card.

If you have any questions, please contact \_\_\_\_\_.

#### ATTACHMENT B

#### APPLICATION FOR LIFETIME WARRANTY CERTIFICATE

Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Date of original TBLT purchase\* \_\_\_\_\_  
Date battery was replaced\* \_\_\_\_\_  
Make, model, year, and license plate number of car in which TBLT was installed: \_\_\_\_\_

Signature \_\_\_\_\_

\* If you do not know the exact date, an approximate date is acceptable.  
(Allow approximately 45 days for delivery.)

#### ATTACHMENT C

Dear \_\_\_\_\_:

Here is your lifetime warranty certificate. This certificate is good only for the car in which the original TBLT battery was installed. If, at any time in the future, your battery fails to accept and hold a charge, you can use this certificate to get a new battery, free, from participating Sunoco/DX dealers or distributors. All you have to do is give the Sunoco/DX dealer or distributor the lifetime warranty certificate. Sunoco then will send you a new warranty certificate which you can use to obtain additional free replacement batteries for the car in which the original TBLT battery was installed.

If you have any questions, please contact \_\_\_\_\_.

IN THE MATTER OF  
HOSPITAL AND HEALTH SERVICES CREDIT UNION  
CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF  
THE FEDERAL TRADE COMMISSION ACT AND THE  
FAIR CREDIT REPORTING ACT

*Docket C-3146. Complaint, Oct. 17, 1984—Decision, Oct. 17, 1984*

This consent order requires an Ann Arbor, Michigan credit union, among other things, to cease failing to disclose, when rejecting a credit application or increasing the cost of credit, that the action is based partially or wholly on information contained in a consumer credit report; and provide the rejected applicant with the name and address of the reporting agency together with the specific principal reason(s) for the adverse action based on this information. The Order also requires the credit union to send to consumers who were denied credit between January 1, 1983 and the effective date of the Order, a letter containing required disclosures.

*Appearances*

For the Commission: *George T. O'Brien.*

For the respondent: *Thomas J. O'Connor, Zweig & Harkness, Southfield, Mich.*

COMPLAINT

Pursuant to the provisions of the Fair Credit Reporting Act 15 U.S.C. 1681, *et seq.* and the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.* and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Hospital and Health Services Credit Union, a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts, 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. For the purposes of this complaint and the accompanying order the following definitions are applicable:

A. The terms *consumer*, *consumer report*, *consumer reporting agency* and *person* shall be defined as provided in section 603 of the Fair Credit Reporting Act, 15 U.S.C. 1681a.

B. The term *no file response* shall be defined as a consumer report consisting of a response by a consumer reporting agency to respondent's request for information on a given credit applicant indicating