

IN THE MATTER OF
JOHN TREADWELL
d/b/a TRANS-CONTINENTAL INDUSTRIES

CONSENT ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3165. Complaint, Sept. 23, 1985—Decision, Sept. 23, 1985

This consent order requires John Treadwell, doing business as Trans-Continental Industries, to cease, among other things, making any performance claims for any gasoline additive without competent and reliable evidence; claiming that tests support any performance claims without proper substantiation; and misrepresenting the results or conclusions of any tests pertaining to gasoline additives or the potential profits or marketing assistance that will be provided for distributors of respondent's products. Further, respondent is required to maintain records of substantiation for three years; file a compliance report with the Commission within 60 days; and notify the Commission of the discontinuance of his present employment and any future employment in similar areas for five years.

Appearances

For the Commission: *Paul R. Roark.*

For the respondent: *Pro se.*

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 John Treadwell, an individual doing business as Trans-Continental Industries, 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 John Treadwell is an individual doing business as Trans-Continental Industries ("TCI"), a sole proprietorship with its office and principal place of business located at 2489 Burlingham Place, Simi Valley, California.

PAR. 2. Respondent is now, and at all times relevant to this complaint has been, engaged in the manufacturing, offering for sale, sale, and distribution to the public of a product known as 20% PLUS ORGANIC FUEL CATALYST ("20% Plus") and other gasoline and

fuel additives. Respondent, in connection with his offering these products for sale, has also published and disseminated, and now publishes and disseminates, advertisements and other sales promotional material for the purpose of promoting their sale. 20% Plus is a gasoline additive advertised to be a means of substantially improving fuel economy in automobiles and other motor vehicles.

PAR. 3. In the course and conduct of his said business, respondent has disseminated and caused the dissemination of certain advertisements for 20% Plus and other gasoline and fuel additives by various means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, the sending of promotional materials through the mail and the direct solicitation of individuals by telephone calls from California to numerous other states, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of these products in or affecting commerce.

PAR. 4. Among the advertisements and other sales promotional materials disseminated by respondent are those identified as Exhibits A and B, which are attached hereto.

PAR. 5. In the advertisements and sales promotional materials referred to in Paragraph Four and other advertisements and sales promotional materials, and in statements made orally to prospective purchasers by telephone, respondent has stated that:

a. 1. "20%
PLUS
ORGANIC FUEL CATALYST

....
—PROVEN IN TESTING TO—

Deliver marked improvement of fuel
efficiency and mileage.
....

LABORATORY AND FIELD TESTING
BOOKLET" (Exhibit A)

2. "20% PLUS organic fuel catalyst has been designed to improve combustion of normally unused and unburned fuel. In carefully controlled tests it has proven to aid fuel efficiency and reduce fuel consumption. It has effectively reduced fuel costs 20 to 25% in cases tested." (Exhibit B)

b. "To give you an idea of the money to be made as a distributor. . . . Back in January, 1982, . . . we had 46 distributors. 42 of those distributors made in excess of \$6200.00 net, . . . In fact, (name), this is the only business that I know of that you can literally double your money in 60 days or less."

c. Trans-Continental Industries will assist distributors of 20% Plus and other TCI products in reselling those products by placing advertising in local and national print and broadcast media and by soliciting accounts by telephone and referring those accounts to the local distributors.

PAR. 6. By and through the use of these and other statements, respondent has represented, directly or by implication, that:

a. Laboratory and road tests prove that 20% Plus reduces motor vehicle fuel costs 20 to 25%.

b. Forty-two out of forty-six distributors made in excess of \$6200 profit in January 1982 by reselling 20% Plus, and distributorships are, in general, very profitable.

c. Respondent would assist distributors of 20% Plus in reselling it.

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

a. Laboratory and road test results do not prove that 20% Plus reduces motor vehicle fuel costs 20 to 25%. Laboratory test reports used by respondent in promoting 20% Plus were, in fact, altered test reports relating to tests conducted for another company and for different purposes. Such reports were used without authorization from either the testing company or the company for which the tests were conducted, and such reports do not prove or in any way substantiate the fuel cost reduction claims made by respondent.

b. Forty-two out of forty-six distributors did not make in excess of \$6200 in January 1982. Most distributors have made little or no profit from the resale of respondent's products.

c. Respondent has not assisted distributors of 20% Plus in reselling it. Respondent has not placed advertisements in the media and does not conduct telephone solicitations for the benefit of its distributors.

Therefore, said advertisements and other sales promotional materials disseminated by respondent and oral statements made by respondent were and are false and misleading.

PAR. 8. By disseminating Exhibits A and B and other advertisements and sales promotional materials, respondent has represented, directly or by implication, that respondent possessed and relied upon a reasonable basis for making, at the time they were made, the representations alleged in part a. of Paragraph Six. In truth and in fact, respondent had no reasonable basis for such representations. Therefore, said advertisements and other sales promotional materials disseminated by respondent are false and misleading.

PAR. 9. The use by respondent of the aforesaid false and misleading representations has had and now has the capacity and tendency to mislead members of the consuming public into the erroneous and

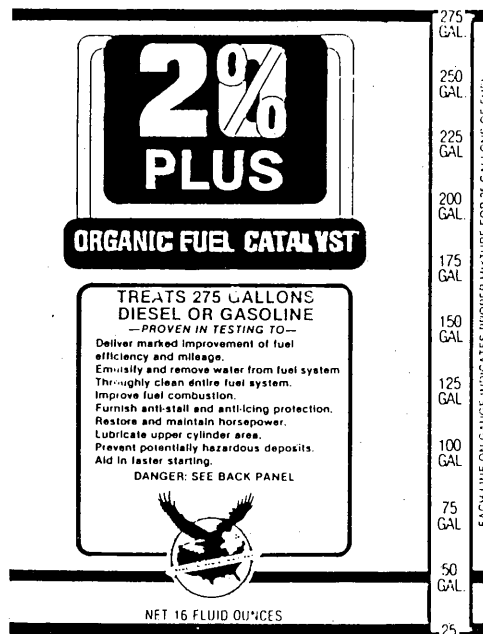
mistaken belief that said representations were and are true and into the purchase of substantial quantities of products sold by respondent by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public, and constituted and now constitute unfair and deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondent, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

EXHIBIT A



TRANS-CONTINENTAL INDUSTRIES
 4359 Township Ave./P.O. Box 480, Simi Valley, Ca. 93062 (805) 581-0477 (800) 423-2537



LABORATORY AND FIELD TESTING BOOKLET

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EXHIBIT B

Proven Test Results....
20% PLUS™ Organic Fuel Catalyst
 NEW SCIENTIFIC
 DEVELOPMENT

20% PLUS™ organic fuel catalyst is blended with a multipurpose detergent cleaning additive for all grades of diesel fuel, leaded and unleaded gasoline, which GUARANTEES a definite improvement of fuel efficiency, fuel mileage and increased engine life.

20% PLUS™ organic fuel catalyst has been designed to improve combustion of normally unused and unburned fuel. In carefully controlled tests it has proven to aid fuel efficiency and reduce fuel consumption. It has effectively reduced fuel costs 20 to 25% in cases tested.

Guaranteed

- to give definite improvement of fuel efficiency and mileage
- to remove water and moisture from fuel system
- to clean engine fuel system
- to improve combustion of fuel
- to give anti-stall and anti-jolting protection
- to restore and maintain horsepower
- to lubricate upper cylinder area
- to prevent harmful deposits
- to aid faster starting



(SATISFACTION GUARANTEED)

TRANS-CONTINENTAL INC.

4359 Tr. Linship Avenue, Simi Valley, California 93063
 For orders call collect (805) 581-0477

SAVE 20%
of your fuel
cost or more
on earth moving
equipment, trucks,
and all combustion
engines...
DIESEL &
GASOLINE

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 Los Angeles Regional Office 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, 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 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 John Treadwell is an individual doing business as Trans-Continental Industries, a sole proprietorship, with its office and principal place of business located at 2489 Burlingham Place, Simi Valley, 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

I

It is ordered, That respondent John Treadwell, an individual doing business as Trans-Continental Industries or under any other name or names, his successors and assigns, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the man-

manufacturing, advertising, labeling, offering for sale, sale or distribution of the gasoline additive known as 20% PLUS ORGANIC FUEL CATALYST ("20% Plus") or any other gasoline, oil, or fuel-saving 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, that any such product will or may result in fuel economy improvement when used in an automobile, truck, recreational vehicle or other motor vehicle unless, at the time of making such representation, respondent possesses and relies upon written results of competent and reliable testing that isolates the effects of the product and substantiates the representation. Respondent may use such tests as the then current urban dynamometer driving schedule (40 CFR 86, Appendix I) or the then current highway fuel economy driving schedule (40 CFR 600, Appendix I) established by the Environmental Protection Agency or other tests of an equivalent competency and reliability;

b. Representing, directly or by implication, that any performance claim about any such product is based upon any competent and reliable test(s) or survey(s), unless such representation is true;

c. Misrepresenting, directly or by implication, the purpose, content, or conclusion of any test or survey pertaining to any such product;

d. Misrepresenting, directly or by implication, the past, present or future sales, profits or earnings available from the resale of respondent's products, or misrepresenting, directly or by implication, the past or present sales, profits or earnings of respondent's sales agents;

e. Misrepresenting, directly or by implication, the advertising or promotional efforts to be undertaken by respondent to assist distributors in the resale of respondent's products.

For the purposes of Part I, a competent and reliable test means one in which persons qualified to do so conduct the test and evaluate its results in an objective manner using procedures that ensure accurate and reliable results.

II

It is further ordered, That respondent, his successors and assigns, in connection with the manufacturing, advertising, labeling, offering for sale, sale or distribution of any gasoline, oil, or fuel-saving product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall for at least three years after the last date of dissemination by respondent either directly or through any business entity of any representation about any such product maintain and upon request make available to the Federal Trade Commission

for inspection and copying, copies of, and dissemination schedules for, all advertisements, labels, sales promotional materials and post-purchase materials for such product and copies of all test materials and results upon which such representation is based.

III

It is further ordered, That respondent forthwith distribute a copy of this order to all present or future personnel, agents or representatives of respondent having sales, advertising, or policy responsibilities with respect to the subject matter of this order, and that respondent secure from each such person a signed statement acknowledging receipt of said order and maintain that statement in its files for at least three years.

IV

It is further ordered, That respondent shall promptly notify the Commission of the discontinuance of his present business or employment and that for a period of five (5) years from the date of service of this order respondent shall promptly notify the Commission of each affiliation with a new business or employment in telephone sales, or in connection with the manufacturing, advertising, labeling, offering for sale, sale or distribution of any gasoline additive or any other gasoline, oil, or fuel-saving product, each such notice to include the new business address of respondent and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of the respondent's duties and responsibilities in connection with the new business or employment.

V

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

Complaint

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IN THE MATTER OF
WEYERHAEUSER COMPANY, ET AL.

DISMISSAL ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT

Docket 9150. Complaint, Feb. 9, 1981—Dismissal Order, Sept. 26, 1985

The Federal Trade Commission has dismissed a complaint that charged Weyerhaeuser Co.'s acquisition of a corrugating-medium mill from Menasha Corp. could substantially lessen competition in the manufacture of corrugating medium in the western U.S. The Commission based its dismissal on its findings that a number of market characteristics show that the acquisition did not lessen competition.

Appearances

For the Commission: *Dennis F. Johnson, Richard A. Wolff, Richard L. Sippel and Timothy A. Ngau.*

For the respondents: *Tefft W. Smith, James D. Sonda and George A. Joseph, Kirkland & Ellis, Chicago, Ill. and Thomas D. Yannucci, Michael E. Baumann and James D. Senger, Kirkland & Ellis, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have undertaken an acquisition of Menasha Corporation ("Menasha") that, if consummated, would result in a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45(a)(1), and that said undertaking therefore constitutes a violation of Section 5(a)(1) of the Federal Trade Commission Act, as amended, 15 U.S.C. 45(a)(1), and that a proceeding by it in respect thereof is in the public interest, hereby issues its complaint, pursuant to Section 11 of the Clayton Act, 15 U.S.C. 21, and Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), stating its charges as follows:

I. DEFINITIONS

1. For the purposes of this complaint, the following definitions shall apply:

(a) *Corrugating medium* is unbleached paperboard used for the fluted middle layer of corrugated sheets and includes both medium pro-