

Complaint

IN THE MATTER OF

ESRIM VE SHEVA HOLDING CORP., ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-4030; File No. 0123116**Complaint, December 17, 2001--Decision, December 17, 2001*

This consent order addresses advertising representations that Respondent Esrin Ve Sheva Holding Corporation, sometimes doing business as Gadget Universe – and its chief executive officer, Respondent Alexander Elnekaveh – made about Super FuelMAX, an automotive fuel-line magnet. The order, among other things, prohibits the respondents from making any claim in connection with any fuel-line magnet, or any purported fuel-saving or emission-reducing product for use with a motor vehicle – including claims that such product improves fuel burn, reduces fuel consumption, or reduces emissions or pollutants; or about the benefits, performance, or efficacy of such product – without possessing and relying on competent and reliable evidence, which, when appropriate, must be competent and reliable scientific evidence, substantiating the claim. The order also prohibits the respondents from misrepresenting (1) that any user testimonial or endorsement of the product reflects the actual and current opinions, findings, beliefs, or experiences of the user, or (2) the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Participants

For the Commission: *Jonathan Cowen, Angela Floyd, Joni Lupovitz, and Elaine D. Kolish*

For the Respondent: *Bernard Schwam.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Esrin Ve Sheva Holding Corporation, sometimes doing business as Gadget Universe, and Alexander Elnekaveh, individually and as an officer of the corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

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1a. Respondent Etrim Ve Sheva Holding Corp. is a New York corporation with its principal office or place of business at 9408 Owensmouth Ave., Chatsworth, California 91311.

1b. Respondent Alexander Elnekaveh is an officer of the corporate respondent. Individually or in concert with others he formulates, directs, or controls the policies, acts, or practices of the corporation, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of Etrim Ve Sheva Holding Corp.

2. Respondents have advertised, offered for sale, sold, and distributed products to the public, including Super FuelMAX, an automotive aftermarket fuel-line magnet device.

3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

4. Respondents have disseminated or have caused to be disseminated advertisements for the Super FuelMAX, including but not necessarily limited to the attached Exhibits A, B, and C. These advertisements contain the following statements:

A. Finding the world's most extraordinary products for you is not my job – it's my mission. . . . No matter where you see our unique products, I've personally selected each one from the 1000's I discover around the globe. Here's one the big oil companies don't want you to know about: Super FuelMAX® on page 52 will cut your fuel costs by 27% and reduce harmful emissions by up to 40%. . . .

Sincerely,
Alex
President, Gadget Universe

[Exhibit A (catalog ad)]

Complaint

B. FUEL BEFORE

FUEL AFTER

[graphical depiction of fuel molecules lining up in straight columns and rows after passing through Super FuelMax]

SAVE UP TO 27% ON GAS!!

[Exhibit B (catalog ad)]

C. Fight the War Against Rising Gas Prices – Reduce Your Fuel Costs by An Amazing 27% with Super FuelMAX®, and Keep the Air Cleaner At the Same Time

I refuse to be at the mercy of OPEC! So, I searched for the best product I could find to save money on fuel for my gas-guzzling SUV. I wanted something I could install myself, without tools, that would also guarantee to boost engine performance. The Super FuelMAX came through with flying colors. It clamps onto my fuel line, and two powerful neodymium conductors use the scientific principal of magnetic resonance to give me better fuel burn. A certified EPA laboratory reports an amazing 27% in increased mileage and 42% reduction in harmful pollutants. Since the Super FuelMAX is used by trucking fleets and transportation departments around the world, it's exactly what I need to reduce my fuel costs today without worrying about how high they'll raise oil prices in the Middle East tomorrow.

[Exhibits B (catalog ad) and C (Internet ad)]

5. Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that, when applied to the fuel line in a motor vehicle, Super FuelMAX:

A. causes fuel molecules to line up in straight columns and rows;

Complaint

- B. improves fuel burn through magnetic resonance;
- C. reduces fuel consumption;
- D. reduces fuel consumption by 27% or up to 27%;
- E. reduces harmful emissions or pollutants; and
- F. reduces harmful emissions or pollutants by 42% or up to 40%.

6. Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made.

7. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made. Therefore, the representation set forth in Paragraph 6 was, and is, false or misleading.

8. Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that tests performed at a certified EPA laboratory prove that Super FuelMAX:

- A. increases mileage by 27%; and
- B. reduces harmful pollutants by 42%;

9. In truth and in fact, tests performed at a certified EPA laboratory do not prove that Super FuelMAX:

- A. increases mileage by 27%; and
- B. reduces harmful pollutants by 42%;

Complaint

Therefore, the representations set forth in Paragraph 8 were, and are, false or misleading.

10. Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that a testimonial from respondent Alexander Elnekaveh appearing in the advertisements for Super FuelMAX reflects:

- A. Elnekaveh's actual findings and experience with the product; and
- B. the typical or ordinary experience of members of the public who use the product.

11. In truth and in fact, a testimonial from respondent Alexander Elnekaveh appearing in the advertisements for Super FuelMAX does not reflect:

- A. Elnekaveh's actual findings and experience with the product; and
- B. the typical or ordinary experience of members of the public who use the product.

Therefore, the representations set forth in Paragraph 10 were, and are, false or misleading.

12. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this seventeenth day of December, 2001, has issued this complaint against respondents.

By the Commission.

EXHIBIT A

Finding the world's most extraordinary products for you is not my job—it's my mission. If it doesn't make your life healthier, safer, more efficient, simpler or more fun, you won't find it here or on our web site. And thanks to you, www.gadgetuniverse.com has twice as many new customers as our two major competitors combined! Sign up to receive our e-mail specials and save hundreds of dollars—we'll give you even more fantastic values with limited editions, one-of-a-kind sales, close-outs and sweepstakes you won't find in the catalog. *I promise you your e-mail address is 100% secure with us.* No matter where you see our unique products, I've personally selected each one from the 1000's I discover around the globe. Here's one the big oil companies don't want you to know about: Super FuelMAX® on page 52 will cut your fuel costs by 27% and reduce harmful emissions up to 40%. We'll refund your money if it doesn't work for you! Another standout is

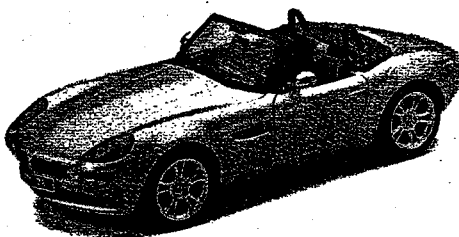
the Junghans MEGA Radio-Controlled Watch on page 6, a handsome, high tech wonder we've featured before, but now it's hundreds of dollars off the original \$1000 price. In print or on the web,

there's always something out-of-this-world from Gadget Universe. I make sure of it.

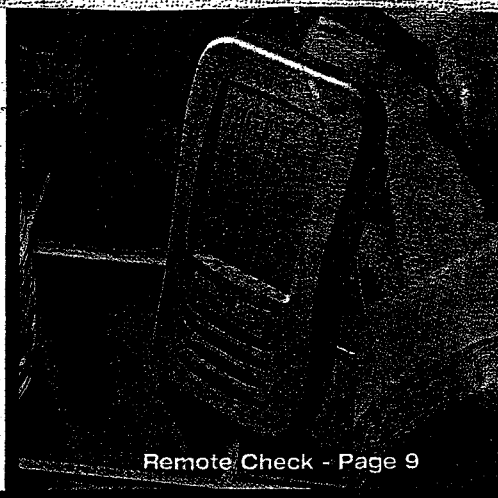
Sincerely,



Alex
President, Gadget Universe
alex@gadgetuniverse.com



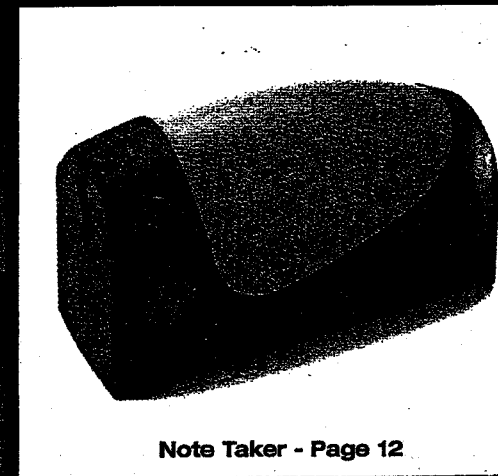
BMW Z8 - Page 33



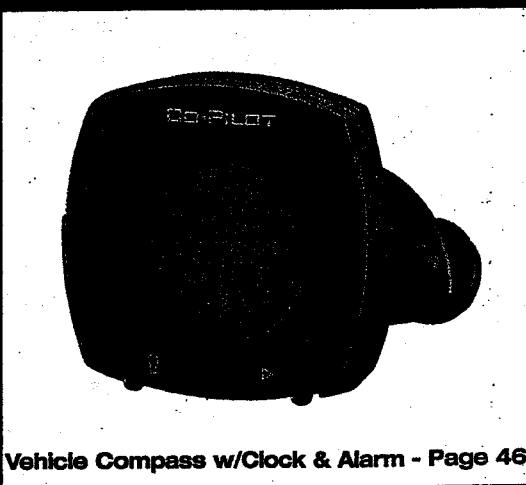
Remote Check - Page 9



Speaker Phone - Page 12



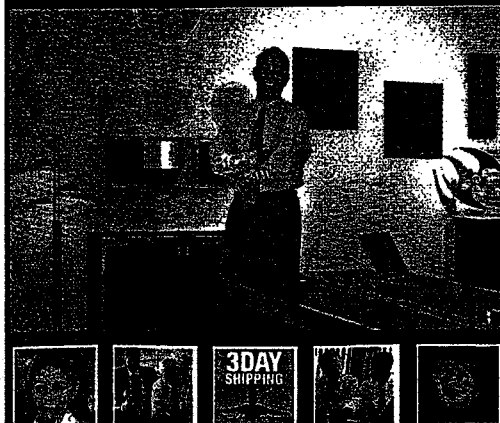
Note Taker - Page 12



Vehicle Compass w/Clock & Alarm - Page 46



Sony® Portable DVD Player - Page 9



Radar Detector w/Compass & Alt - Page 19



Orchid - Page 21



100% SATISFACTION - QUALITY - SERVICE

EXHIBIT B

The World's Finest Wireless Headset Will Give You The Freedom You've Never Had Before

I'm on the road so much I don't know how I got along without this amazingly comfortable hands-free universal headset. Dangling wires are gone forever! More than once I've tangled the wires and yanked my headset off, right in the

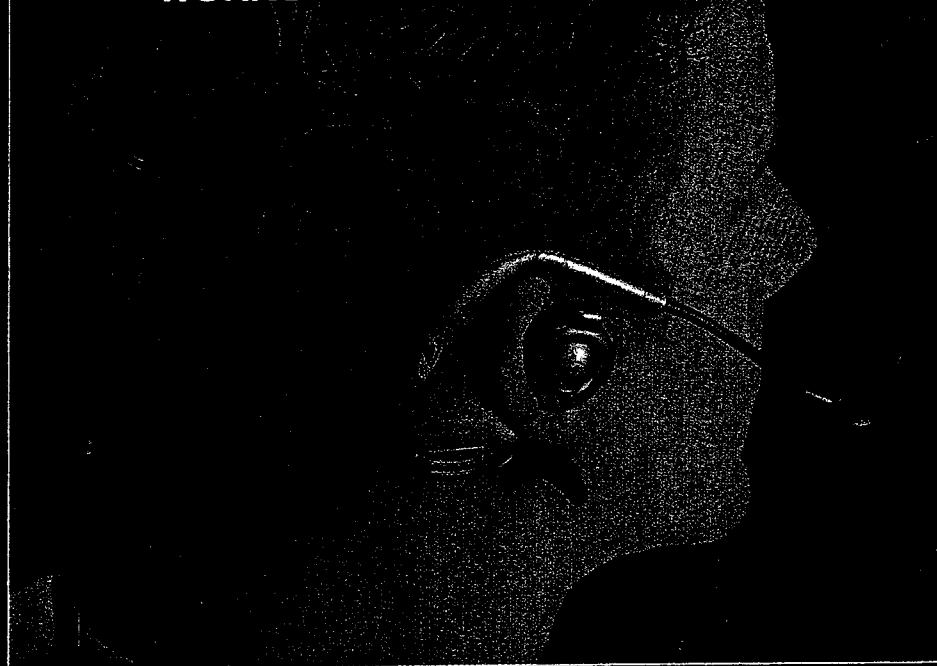


middle of an important business call. This incredible set is so tiny and fits so light, you'd think I'm talking to the air. And the sound is clear, even when my mobile phone is 5

feet away. I just plug the base unit into my car's lighter, plug the jack into the headset, and I'm good to go. And I'm a better, safer driver because of it.

TP216 - Air Magic Headset - \$99.95
 TP518S - StarTac GSM Phone Adapter
 TP518N - Nokia 5100/6100 Series Adapter
 TP518E - Ericson 600/700 Series Adapter
 \$14.95 each

WIRELESS CELLULAR HEADSET! WORKS WITH MOST CELL PHONES!



FUEL BEFORE



**SAVE UP TO 27%
ON GAS!!**

FUEL AFTER

Fight the War Against Rising Gas Prices—Reduce Your Fuel Costs by An Amazing 27% with Super FuelMAX®, and Keep the Air Cleaner At the Same Time

I refuse to be at the mercy of OPEC! So, I searched for the best product I could find to save money on fuel for my gas-guzzling SUV. I wanted something I could install myself, without tools, that would also guarantee to boost engine performance. The Super FuelMAX came through with flying colors. It clamps onto my fuel line, and two powerful neodymium conductors use the scientific principal of magnetic resonance to give me better fuel burn. A certified EPA laboratory reports an amazing 27% in increased mileage and 42% reduction in harmful pollutants. Since the Super FuelMAX is used by trucking fleets and transportation departments around the world, it's exactly what I need to reduce my fuel costs today without worrying about how high they'll raise oil prices in the Middle East tomorrow. Try it for 60 days—if it doesn't work for you, we'll refund your money.

TG224 - Super FuelMAX® - \$49.95



Visit our website at www.gadgetuniverse.com

GadgetUniverse

9408 Owensmouth Ave.
Chatsworth, CA 91311

CUSTOMER NUMBER

10JWH

SOURCE CODE

WEB CODE: PLEASE USE THIS CODE WHEN ORDERING FROM THE WEB

BULK RATE
U.S. POSTAGE
P A I D
EUSHOLDING INC.

To order call 1-800-478-4703 24 hours.
For Customer Service and Product Information call 1-800-872-6250 8-4 Pacific M-F.

EXHIBIT C

Gadget Universe

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Security / Safety

Telecom

Electronics/Camera

Stereos/Radios/TVs

Executive

Toys

Health / Fitness

Watches

Clocks

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in your cart


ADD [Click Here](#)
to my shopping cart

It's New Years!

- ▶ In Stock Now
- ▶ Send as Gift
- ▶ Item in Auction

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TG 224 Super Fuel Max

\$ 49.95

Also Available:



Parking

Radar I
AltimeterMini III
- \$249.95Park Ri
SystemMicro 2
- \$99.95Mini II F
- \$179.95

Fight the War Against Rising Gas Prices-Reduce Your Fuel Costs by An Amazing 27% with Super FuelMAX®, and Keep the Air Cleaner At the Same Time

I refuse to be at the mercy of OPEC! So, I searched for the best product I could find to save money on fuel for my gas-guzzling SUV. I wanted something I could install myself, without tools, that would also guarantee to boost engine performance. The Super FuelMAX came through with flying colors. It clamps onto my fuel line, and two powerful neodymium conductors use the scientific principal of magnetic resonance to give me better fuel burn. A certified EPA laboratory reports an amazing 27% in increased mileage and 42% reduction in harmful pollutants. Since the Super FuelMAX is used by trucking fleets and transportation departments around the world, it's exactly what I need to reduce my fuel costs today without worrying about how high they'll raise oil prices in the Middle East tomorrow. Try it for 60 days-if it doesn't work for you, we'll refund your money.

In stock? **[yes]**

Quantity

1

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Gadget Universe

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via Verisign

Decision and Order

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 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 respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorneys, 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 draft 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, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that a 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 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1a. Respondent Eslim Ve Sheva Holding Corp. is a New York corporation with its principal office or place of business at 9408 Owensmouth Ave., Chatsworth, California 91311.

1b. Respondent Alexander Elnekaveh is an officer of the corporate respondent. Individually or in concert with others he formulates, directs, or controls the policies, acts, or practices of

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the corporation, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of Eslim Ve Sheva Holding Corp.

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

DEFINITIONS

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

1. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
2. Unless otherwise specified, "respondents" shall mean Eslim Ve Sheva Holding Corporation, sometimes doing business as Gadget Universe, its successors and assigns and its officers; Alexander Elnkaveh, individually and as an officer of the corporation; and each of the above's agents, representatives, and employees.
3. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any fuel-line magnet, or any purported fuel-saving or emissions-reducing product for use in

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conjunction with a motor vehicle, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication

- A. about the effect of such product on fuel molecules;
- B. that such product improves fuel burn;
- C. that such product reduces fuel consumption;
- D. that such product reduces fuel consumption by any number, percentage, or rate;
- E. that such product reduces emissions or pollutants;
- F. that such product reduces emissions or pollutants by any number, percentage, or rate; or
- G. about the benefits, performance, or efficacy of such product;

unless, at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, that any user testimonial or endorsement of the product reflects the actual and current opinions, findings, beliefs, or experiences of the user.

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III.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not represent, in any manner, expressly or by implication, that the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the product, unless:

- A. The representation is true and, at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or
- B. Respondents disclose, clearly and prominently, and in close proximity to the endorsement or testimonial, either:
 - 1. what the generally expected results would be for users of the product, or
 - 2. the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

For purposes of this Part, "endorsement" shall mean as defined in 16 C.F.R. § 255.0(b).

IV.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity,

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results, conclusions, or interpretations of any test, study, or research.

V.

IT IS FURTHER ORDERED that respondent Eslim Ve Sheva Holding Corp., and its successors and assigns, and respondent Alexander Elnekaveh shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VI.

IT IS FURTHER ORDERED that respondent Eslim Ve Sheva Holding Corp., and its successors and assigns, and respondent Alexander Elnekaveh shall deliver a copy of this order to all current and future principals, officers, directors and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondents shall retain the signed, dated

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statements acknowledging receipt of the order for a period of five years and upon request make them available to the Federal Trade Commission for inspection and copying.

VII.

IT IS FURTHER ORDERED that respondent Eshim Ve Sheva Holding Corp., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

VIII.

IT IS FURTHER ORDERED that respondent Alexander Elnekaveh, for a period of five (5) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

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IX.

IT IS FURTHER ORDERED that respondent Eslim Ve Sheva Holding Corp., and its successors and assigns, and respondent Alexander Elnekaveh shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

X.

This order will terminate on December 17, 2021, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Analysis

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement for entry of a consent order from ESRIM Ve Sheva Holding Corp., a corporation sometimes doing business as Gadget Universe, and its CEO, Alexander Elnekaveh, individually and as an officer of the corporation (referred to collectively as "respondents"). The agreement would settle a complaint by the Federal Trade Commission that respondents engaged in deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns advertising representations made about Super FuelMAX, an automotive fuel-line magnet. The administrative complaint alleges that respondents violated the FTC Act by disseminating advertisements that made unsubstantiated performance claims about Super FuelMAX. The Complaint alleges that respondents represented that Super FuelMAX: (1) causes fuel molecules to line up in straight columns and rows; (2) improves fuel burn through magnetic resonance; (3) reduces fuel consumption; (4) reduces fuel consumption by 27% or up to 27%; (5) reduces harmful emissions or pollutants; and (6) reduces harmful emissions or pollutants by 42% or up to 40%. The Complaint further alleges that respondents represented that they had a reasonable basis for making these claims, but in fact did not possess competent evidence supporting them. Additionally, the Complaint challenges, as false, claims that tests performed at a certified U.S. Environmental Protection Agency prove that: (a) increases mileage by 27%; and (b) reduces harmful pollutants by 42%.

Analysis

The Complaint also alleges that respondents falsely represented that a testimonial from respondent Alexander Elnekaveh reflected: (a) Elnekaveh's actual findings and experience with the product; and (b) the typical or ordinary experience of members of the public who use the product.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. Part I of the proposed consent order prohibits respondents from making unsubstantiated claims in connection with any fuel-line magnet or any purported fuel-saving or emission-reducing product for use with a motor vehicle, including claims about the effect of such product on fuel molecules and that such product improves fuel burn; reduces fuel consumption or reduces fuel consumption by any number, percentage, or rate; reduces emissions or pollutants or reduces emissions or pollutants by any number, percentage, or rate; or about the benefits, performance, or efficacy of such product. The evidence required to substantiate such claims must be competent and reliable evidence, which, when appropriate, must be competent and reliable scientific evidence.

Part II of the proposed consent order prohibits respondents from misrepresenting that any user testimonial or endorsement of the product reflects the actual and current opinions, findings, beliefs, or experiences of the user.

Part III of the proposed consent order prohibits respondents from representing that the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the product, unless the representation is true and, at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or respondents disclose what the generally expected results would be for users of the product, or that consumers should not expect to experience similar results.

Analysis

Part IV of the proposed consent order prohibits respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

The remainder of the proposed consent order also contains provisions regarding record-keeping, distribution of the order, notification of changes in corporate status, notification of changes in employment of the individual respondent, the filing of a compliance report, and termination of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify their terms in any way.