

right of participation in the earnings of any domestic concern, corporate or non-corporate, which is engaged in the manufacture or sale of manually powered paint applicators or engaged in the manufacture or sale of raw materials to companies engaging in the manufacture or sale of manually powered paint applicators, or from entering into any arrangements or understanding with such a concern through which respondent EZ becomes possessed of that concern's market share.

For the purposes of this order, manually powered paint applicators are defined as: paint and varnish brushes; paint rollers including pans, covers, handles, and other accessories sold separately, or as part of a paint roller kit; and miscellaneous paint applicators other than spray equipment and aerosol cans.

VIII

It is further ordered, That respondent EZ shall within sixty (60) days after date of service of this order, and every sixty (60) days thereafter until respondent EZ has fully complied with the provisions of this order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which respondent EZ intends to comply or has complied with this order. All compliance reports shall include, among other things that are from time to time required, a summary of contracts or negotiations with anyone for the specified stock, assets and plant, the identity of all such persons, and copies of all written communications to and from such persons.

IX

It is further ordered, That respondent EZ 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 change in the corporation which may affect compliance obligations arising out of the order.

IN THE MATTER OF

H-S ENTERPRISES, INCORPORATED, ET AL.

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

Docket C-2197. Complaint, Nov. 26, 1971—Decision, Nov. 26, 1971

Consent order requiring a Lincoln, Rhode Island, marketer of "Stripper SX" or "Safety Strip," a paint and resin disintegrator, to cease misrepresenting

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their products as nonhazardous, using the term "Safety" for products containing toxic substances, and failing to label their products with hazard warnings and first aid instructions.

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 the parties listed in the caption hereof and 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. Respondent H-S Enterprises, Incorporated (Isochem Resins Co.), is a corporation, existing and doing business under and by virtue of the laws of the State of Rhode Island and duly authorized to conduct business under that name with its principal office and place of business located at Cook Street, Lincoln, Rhode Island.

PAR. 2. Respondent Herman Selya is president and treasurer of said corporation. Mr. Herman Selya founded the respondent corporation and has been and is responsible for establishing, supervising, directing and controlling the business activities and practices of corporate respondent H-S Enterprises. Respondent Selya's office address is the same as that of said corporation.

PAR. 3. Respondents have been engaged in the advertising, offering for sale, sale and distribution of Stripper SX, formerly known as Safety Strip.

PAR. 4. In the course and conduct of their aforesaid business, respondents have caused, the product listed in Paragraph Three, when sold to be shipped from their place of business in the State of Rhode Island to purchasers thereof located in various other States of the United States, and have caused, said product to be shipped from the place of manufacture to various States of the United States other than the state of manufacture. 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. 5. In the course and conduct of their aforesaid business, respondents have disseminated, and have caused the dissemination of certain advertisements, and/or promotional materials, and/or labels concerning the aforesaid product by the United States mails and by various other means in commerce as "commerce" is defined in the

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product as to its flammable, toxic, volatile and irritating natures, respondents have represented directly or by implication:

1. That STRIPPER SX, or as it was formerly called SAFETY STRIP, is non-flammable, non-volatile, non-toxic, non-irritating, with a flash point of 200° C., and a boil point of 175° C., and completely safe.

2. That according to its label STRIPPER SX, formerly known as SAFETY STRIP, requires ordinary care in its use and handling and requires only perfunctory first aid instructions if contact is made with any part of the handler's body by the respondents' product.

PAR. 7. In truth and in fact:

1. STRIPPER SX, formerly known as SAFETY STRIP, is flammable, volatile, toxic and irritating to the skin, eyes and mucous membranes, has considerably lower boiling and flash points than ascribed to it, and it is not completely safe.

2. STRIPPER SX, formerly known as SAFETY STRIP, requires moderate care in its use and handling and requires detailed first aid instructions in case of contact with the handler's body.

Therefore, the advertisements and promotional materials and the failure to properly label the product are misleading in material respect as to the safe use of the aforesaid product and they have constituted, and now constitute false, misleading and deceptive practices, and are in violation of Section 5 of the Federal Trade Commission Act, as amended.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption herein, and the respondents 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 respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission have thereafter executed an agreement containing a consent order, an admission by the respondents 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 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 Section 2.34(b) of its rules, the Commission thereby issues its complaint, makes the following jurisdictional findings, and enters the following order.

1. Respondent H-S Enterprises, Incorporated, (Isochem Resins Co.) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located at Cook Street, Lincoln, Rhode Island.

Respondent Herman Selya is president and treasurer of said corporation. Mr. Selya founded the respondent corporation and has been and is responsible for establishing, supervising, directing, and controlling the business activities and practices of corporate respondent H-S Enterprises. Respondent Selya's office address is the same as that of said corporation.

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

I. *It is ordered*, That the respondent H-S Enterprises, Incorporated (Isochem Resins Co.), a corporation, its directors, officers, agents, representatives, employees, successors and assigns, and respondent Herman Selya, individually, and as a director or officer of H-S Enterprises, Incorporated, his agents, representatives and employees directly or indirectly, or through any corporate or other device, in connection with the offering for sale, sale or distribution of goods or commodities in commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Representing, directly or by implication in any advertisements, labels, promotional materials or product name that respondents' STRIPPER SX, formerly known as SAFETY STRIP; or any other substantially similar product:

- (a) Is Non-Flammable.
- (b) Is Non-Volatile.
- (c) Is Non-Toxic.
- (d) Is Non-Irritating.
- (e) Has a Flash Point of 200° C.
- (f) Has a Boil Point of 175° C.
- (g) Is Completely Safe.

2. Misrepresenting, directly or by implication, in any advertisements, labels or promotional materials, the flammable, volatile, toxic or irritating properties of any of the respondents' products and misrepresenting the boiling and flash points of any of the respondents' products.

3. Failing to properly label the respondents' product STRIPPER SX, formerly known as SAFETY STRIP, or any other substantially similar product in conspicuous lettering and type, as follows:

**WARNING! HARMFUL IF SWALLOWED, INHALED,
OR ABSORBED THROUGH SKIN**

Avoid breathing vapor.

Avoid contact with eyes, skin, and clothing.

Keep container closed.

Use with adequate ventilation.

Wash thoroughly after handling.

FIRST AID: If swallowed, induce vomiting and call a physician. Repeat until vomit is clear. For eyes, flush with plenty of water for 15 minutes. Never give anything by mouth to an unconscious person.

WARNING! FLAMMABLE

Keep away from heat, sparks, and open flame.

Keep container closed.

Use with adequate ventilation.

4. Using the word or term "Safety" or any other word or phrase of similar meaning on the label, or in any promotional materials for any of their products containing or composed of toxic substances.

II. *It is further ordered,* That respondents do forthwith cease and desist from disseminating, or causing the dissemination of, any advertisement or promotional material by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for their product STRIPPER SX, formerly known as SAFETY STRIP, or any other substantially similar product, unless the flammable, volatile, toxic or irritating nature of such product, and the correct boil and flash points of such product are clearly and conspicuously disclosed in such advertisement or promotional material, for a period of two years from the date this order is served upon them.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents

engaged in the offering for sale, or sale of any of the aforesaid products, or any other substantially similar products and secure from such present or future personnel 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.

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.

IN THE MATTER OF

ALL ORTHOPEDIC APPLIANCES, INC., ET AL.

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

Docket C-2108. Complaint, Nov. 26, 1971—Decision, Nov. 26, 1971

Consent order requiring a manufacturer of orthopedic appliances and supports of Miami, Fla., to cease suggesting different resale prices to different classes of patients, including Medicare, Insurance, and Industrial Commission patients, and using any deception or subterfuge as a means of affecting the retail prices of its products.

COMPLAINT

The Federal Trade Commission, having reason to believe that corporate respondent All Orthopedic Appliances, Inc. (hereafter AOA, Inc.) and individual respondent Stephen A. Michelson (hereafter Michelson), have violated and are now violating the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C., Section 45), and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

PARAGRAPH 1. Respondent AOA, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 75 N.E. 74th Street, (formerly located at 6887 N.E. 3rd Avenue), Miami, Florida.

PAR. 2. Respondent AOA, Inc. is now, and for several years has been engaged in the manufacture and sale of orthopedic appliances and supports, including such items as slings, braces, splints, and anklets, hereinafter collectively referred to as orthopedic products. It sells these orthopedic products to its customers, such as physicians, hospitals, drugstores, and others, which customers resell to the ultimate consuming public. For the fiscal year ending July 31, 1970, respondent AOA, Inc. had net sales of approximately \$747,000, and total assets of approximately \$299,000.

PAR. 3. In the course and conduct of its business respondent AOA, Inc., has been and is now engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondent now causes, and has caused, its said orthopedic products, when sold, to be shipped from its plant and facilities in the State of Florida to purchasers thereof located in various states other than the state of origin or manufacture of such products. In addition, AOA, Inc., is purchasing and has purchased raw materials and other products for use in the manufacture of its orthopedic products from sellers located in states other than the State of Florida.

PAR. 4. Respondent Stephen A. Michelson is president and sales manager of AOA, Inc. He formulates, directs and controls the acts, practices and policies of AOA, Inc., and actively participates therein. He formulated, directed, encouraged, promoted, adopted, and acquiesced in the acts and practices hereinafter set forth.

PAR. 5. Respondent AOA, Inc., at all times mentioned herein has been and now is in substantial competition in commerce with individuals, firms, and corporations engaged in the sale and distribution of orthopedic products of the same general kind and nature as those manufactured, distributed and sold by respondent.

PAR. 6. In the course and conduct of its business as aforesaid, respondent AOA, Inc., caused to be printed and circulated to its customers a "Confidential Resale Price List" which suggested higher prices on its orthopedic products for patients covered by Medicare, Insurance, and Industrial Commission programs than for other kinds of patients or purchasers. In so doing, respondent AOA, Inc., made several written statements and representations regarding its suggested prices, indicating that it had received "numerous requests for pricing schedules," that it had "consulted many accounts throughout the country to get a cross-section of prices now being charged and the justification for these charges," and that it had found certain of its customers charging "as much as four times cost." Respondent AOA, Inc., further indicated that the price list was the result of a mean

average of the views solicited from its customers and that the suggested prices shown on the price list were influenced by the "(a) Add-on cost of ordering, receiving and storing material. (b) Time spent in application of material and instruction for use. (c) Cost of billing and time-lapse before payment. (d) Allowance for anticipated percentage of uncollectable billings."

PAR. 7. By making the statements and representations as set forth in Paragraph Six, and such others as may not be expressly set forth herein, respondent AOA, Inc., has represented, and now represents directly or by implication, that each of the statements respecting its suggested prices (including the price list itself) has been substantiated by AOA, Inc., by adequate and well-designed studies or surveys prior to the making of such statements, and that such prices are reasonable, fair and customary.

PAR. 8. The foregoing statements and representations were and are false, misleading, and deceptive, either in and of themselves, or by omission. In truth and in fact, AOA, Inc., never received numerous requests for pricing schedules, but only requests for prices on individual items. Furthermore, the mean average prices contained in the schedule were based not only on the factors (a) through (d) listed in Paragraph Six, but were also intended to include a profit for the seller.

In truth and in fact, the aforesaid statements and representations respecting the "Confidential Resale Price List," have not been substantiated by respondent AOA, Inc., by adequate studies or surveys prior to the making of such statements. On the contrary, said statements were based wholly or for the most part on prices arrived at by respondent AOA, Inc., and its president, respondent Michelson, independent of any specific studies or surveys.

PAR. 9. The making of any statement of representation directly or by implication, that the "Confidential Resale Price List" was based on the actual consultation of customers and was influenced by the four factors listed as (a) through (d) in Paragraph Six, or any other statement or representation regarding the basis or accuracy of such price list, when such statements or representations are not supported by empirical data developed from prior, fully documented, adequate and well-researched studies or surveys is unfair, misleading, and deceptive. In addition, or in the alternative, such statements or representations, where not supported by proper data, may result in discriminatory treatment or charges to the different classes of patients described in the "Confidential Resale Price List."

PAR. 10. The use by respondent of the aforesaid false, misleading and deceptive statements and representations may have had, and may now

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have, the capacity and tendency to mislead the customers of AOA, Inc., into believing that they can successfully sell respondent AOA, Inc.'s, orthopedic products to certain classes of patients or purchasers at higher than normal, but nevertheless justified, prices. For that reason or reasons, such customers may have purchased or may now purchase substantial quantities of AOA, Inc.'s, orthopedic products. As a result thereof, substantial trade in such products may have been or potentially may be unfairly diverted to AOA, Inc., from its competitors.

PAR. 11. By distributing a "Confidential Resale Price List" to its customers suggesting higher resale prices to Medicare patients, or to patients enrolled in Medicare programs, which suggested prices were represented to be based on a mean average and were distributed for use in more than one state or locality, AOA, Inc., placed in the hands of its customers an instrumentality which suggested that and/or enabled said customers to violate the statutes and/or regulations administered by the United States Department of Health, Education, and Welfare. Said statutes and/or regulations provide that products used in the treatment of patients under Medicare programs shall be purchased or reimbursed only on the basis of reasonable charges or under the established criteria for determination of reasonable charges.

PAR. 12. Respondent AOA, Inc., in distributing its "Confidential Resale Price List," and in supplying to, and placing in the hands of others, the means of, or an instrumentality for, the violation of federal laws and/or regulations, has engaged and is engaging in acts or practices which are contrary to public policy and in violation of Section 5 of the Federal Trade Commission Act.

PAR. 13. The aforesaid acts and practices of respondents AOA, Inc. and Michelson, as herein alleged, were and are all to the prejudice and injury of the public and of respondent AOA, Inc.'s competitors, and have constituted and now constitute, unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

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 of complaint which the Bureau of Competition 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 respondents 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 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 thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent All Orthopedic Appliances, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 75 N.E. 74th Street (formerly located at 6887 N.E. 3rd Avenue), Miami, Florida. Respondent Stephen A. Michelson is president of All Orthopedic Appliances, Inc., and actively participates in the direction and policies thereof.

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

I.

It is ordered, That respondent, All Orthopedic Appliances, Inc., a corporation, its officers, agents, representatives, employees, successors and assigns, and respondent Stephen A. Michelson, individually, and as an officer of All Orthopedic Appliances, Inc., directly or indirectly, through any corporate or other device, in connection with the manufacture, distribution or sale of orthopedic and related products in commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist, either unilaterally or through any agreement, understanding, or common course of action, between respondents and another or others not party hereto, from engaging in or performing any of the following:

1. Making any misrepresentation, or using any kind of decep-

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tion or subterfuge, oral or written, as a means of affecting the retail prices of its orthopedic and related products, including orthopedic appliances and supports.

2. Suggesting different resale prices to different classes of patients or to different members of the consuming public by any means or methods, including but not limited to the following:

(a) written price lists, and

(b) oral suggestions by employees, including salesmen, sales representatives, contact men, or others.

3. For a period of two years, suggesting resale prices to any dealers or customers by any means or methods, including but not limited to the following:

(a) written price lists, and

(b) oral suggestions by employees, including salesmen, sales representatives, contact men, or others.

II.

It is further ordered, That respondents All Orthopedic Appliances, Inc., and Stephen A. Michelson, shall, within ninety (90) days after service upon them of this order, destroy any remaining originals or copies of the "Confidential Resale Price List," which are in any way within their possession or under their control.

III.

It is further ordered, That respondent All Orthopedic Appliances, Inc., shall, within ninety (90) days after service upon it of this order, serve by certified or registered mail, or by personal delivery:

1. On each of its domestic dealers or customers with whom it is presently dealing or with whom it has dealt since June 18, 1970, a copy of Letter A attached to this order, signed by its president or other responsible official.

2. On all of its salesmen, sales representatives, contact men, or others who ordinarily deal with its dealers or customers the following:

(a) a copy of this order, and

(b) a copy of Letter B attached to this order, signed by the president or other responsible official (with copy of Letter A also attached).

IV.

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 its compliance obligations arising out of the order. Further, respondents shall instruct and notify any prospective purchaser about the existence of this order, and about the fact that the Federal Trade Commission intends to enforce the obligations created thereunder.

v.

It is further ordered, That each respondent herein shall, within ninety (90) 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 and will comply with this order. In this regard, where any copies of Letter A required to have been served, are served by personal delivery, the compliance report shall be accompanied by affidavits executed by the appropriate salesmen or others, describing the cities, towns, or states in which personal delivery was made, and attesting to the fact that said copies of Letter A were indeed properly addressed and served on dealers and customers in those areas, as required by Paragraph III of the order.

LETTER A

(Company Letterhead)

DATE

DEAR :

You may have been one of the accounts which received from our company a "Confidential Resale Price List", suggesting different prices to different kinds of patients, including those covered by Medicare, Insurance, or Industrial Commission programs. We have recently been ordered by the Federal Trade Commission to discontinue the distribution of this list, and to notify all of our accounts that the practice of charging different prices to different kinds of patients, if not based on valid costs of doing business, can be discriminatory and unfair, and therefore illegal.

Furthermore, we understand, and wish to call to your attention, the fact that federal laws or regulations provide, in the case of Medicare patients, that charges to such patients must be reasonable, and in conformance with the regulations promulgated by the United States Department of Health, Education, and Welfare. Where any doubt arises concerning the charges to be made to Medicare patients, you may wish to consult a representative of the above Department.

Very truly yours,

 President, or Responsible
 Official.

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LETTER B
(Company Letterhead)

DATE

DEAR :

Because you are a salesman, sales representative, or other person frequently in touch with our accounts, we want to inform you of the fact that we have recently been ordered by the Federal Trade Commission to cease suggesting resale prices for any of our orthopedic products to any of our customers or accounts for a period of two years, and to refrain from using any sort of deception or subterfuge as a means of affecting the retail prices of our products.

In accordance with the Order of the Commission we recently sent to our accounts a letter explaining our new policy in relation to the "Confidential Resale Price List" which we distributed in the past. A copy of that letter and a copy of the Commission's Order are enclosed herein for your information.

You should read the Commission's Order carefully, and if you have any questions regarding it or its effect on your responsibilities, you should immediately contact for further instructions.

Disobedience of the Order by either the company, or any of its employees, can subject the company to severe monetary penalties for each violation. Therefore, any disregard of the provisions of the Order by any of our employees will result in appropriate disciplinary action.

Very truly yours,

 President, or Responsible
Official.

Enclosures.

 IN THE MATTER OF
HAROLD BURDUMY

 CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE TRUTH
IN LENDING AND THE FEDERAL TRADE COMMISSION ACTS

Docket C-2109. Complaint, Nov. 26, 1971—Decision, Nov. 26, 1971

Consent order requiring a used-car dealer of Philadelphia, Pa., to cease violating the Truth in Lending Act by failing, in consumer credit transactions and advertisements, to make all disclosures in the manner, form, and amount in accordance with Regulation Z of the Act.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it

by said Acts, the Federal Trade Commission, having reason to believe that Harold Burdumy, an individual trading as Harold Burdumy, hereinafter referred to as respondent, has violated the provisions of said Acts and implementing regulation, 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. Harold Burdumy is an individual trading as Harold Burdumy, with his office and principal place of business located at 6601 Frankford Avenue, Philadelphia, Pennsylvania.

PAR. 2. Respondent is now and for some time last past has been engaged in the advertising for sale, offering for sale and sale of used cars to the public.

PAR. 3. In the ordinary course and conduct of his business as aforesaid, respondent regularly extends and for some time last past has regularly extended consumer credit, as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondent, in the ordinary course of his business, as aforesaid, and in connection with his credit sales, as "credit sale" is defined in Regulation Z, has caused and is causing customers to execute retail installment contracts, hereinafter referred to as "the contract." Respondent does not provide these customers with any other consumer credit cost disclosures. By and through the use of the contract, respondent:

1. Failed to print the terms "finance charge" and "annual percentage rate" where these terms are required to be used, more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.

2. Failed to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments, on the face of the contract above or adjacent to the place for the customer's signature, as required by Section 226.8(a) (1) of Regulation Z.

3. Failed to disclose (a) the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation and (b) a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, on the face of the contract above or adjacent to the place for the customer's signature as required by Sections 226.8(a) (1) and 226.8(b) (7) of Regulation Z.

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4. Failed to disclose the finance charge expressed as an annual percentage rate, and failed to describe that rate as the "annual percentage rate," as required by Section 226.8(b)(2) of Regulation Z.

5. Failed to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

6. Failed to use the term "cash price" to describe the price at which respondent offers, in the regular course of business, to sell for cash the property or services which are the subject of the credit sale, as required by Section 226.8(c)(1) of Regulation Z.

7. Failed to disclose the amount of the downpayment, itemized when applicable, as the downpayment in money using the term "cash downpayment," the trade-in allowance using the term "trade-in," and the sum of "cash downpayment" and "trade-in," using the term "total downpayment," as required by Section 226.8(c)(2) of Regulation Z.

8. Failed to disclose the difference between the cash price and the total downpayment, using the term "unpaid balance of cash price," as required by Section 226.8(c)(3) of Regulation Z.

9. Failed to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c)(7) of Regulation Z.

10. Failed to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge and the finance charge, using the term "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

PAR. 5. Respondent, subsequent to July 1, 1969, has advertised, as "advertisement" is defined in Regulation Z, in the form of exterior signs located on the premises of his place of business. Such advertisements aid, promote, or assist, directly or indirectly, extensions of consumer credit, as "consumer credit" is defined in Regulation Z.

By and through the use of said advertisements, respondent:

1. Failed to disclose the following, when advertising "No Money Down" and "If you Qualify Nothing Down":

(a) the cash price;

(b) the number, amount and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(c) the amount of the finance charge expressed as an annual percentage rate; and

(d) the deferred payment price;

as required by Section 226.10(d)(2) of Regulation Z.

PAR. 6. By and through the respondent's aforesaid failure to make the disclosures in the manner and form set forth in Paragraphs Four and Five hereof, respondent failed to comply with the requirements

of Regulation Z, the implementing regulations of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 103(q) of that Act, such failure to comply constitutes a violation of the Truth in Lending Act, and pursuant to Section 108 thereof, respondent thereby violated the Federal Trade Commission Act.

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 Washington, D.C. Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of the Federal Trade Commission Act and the Truth in Lending Act and the implementing regulation promulgated thereunder; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all 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 the 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 has reason to believe that the respondent has violated the said Acts, 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 thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Harold Burdumy is an individual trading as Harold Burdumy, with his principal office and place of business located at 6601 Frankford Avenue, Philadelphia, 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.

Decision and Order

79 F.T.C.

ORDER

It is ordered, That respondent Harold Burdumy, an individual, trading or doing business as Harold Burdumy under any other name or form of business, and respondent's agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension or arrangement for the extension of consumer credit, or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR § 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to print the terms "finance charge" and "annual percentage rate," where these terms are required to be used, more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.
2. Failing to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments, on the face of the contract above or adjacent to the place for the customer's signature, as required by Section 226.8(a) (1) of Regulation Z.
3. Failing to disclose (a) the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation and (b) a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, on the face of the contract above or adjacent to the place for the customer's signature, as required by Sections 226.8(a)(1) and 226.8(b)(7) of Regulation Z.
4. Failing to disclose the finance charge expressed as an annual percentage rate, and failing to describe that rate as the "annual percentage rate," as required by Section 226.8(b)(2) of Regulation Z.
5. Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
6. Failing to use the term "cash price" to describe the price at which respondent offers, in the regular course of business, to sell for cash the property or services which are the subject of the credit sale, as required by Section 226.8(c)(1) of Regulation Z.
7. Failing to disclose the amount of downpayment, itemized, when applicable, as the downpayment in money using the term

“cash downpayment” the trade-in allowance using the term “trade-in,” and the sum of the “cash downpayment” and “trade-in,” using the term “total downpayment,” as required by Section 226.8(c)(2) of Regulation Z.

8. Failing to disclose the difference between the cash price and the total downpayment, using the term “unpaid balance of cash price,” as required by Section 226.8(c)(3) of Regulation Z.

9. Failing to use the term “amount financed” to describe the amount of credit extended, as required by Section 226.8(c)(7) of Regulation Z.

10. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, using the term “deferred payment price,” as required by Section 226.8(c)(8)(ii) of Regulation Z.

11. Stating, in any advertisement, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless there is also stated in that advertisement all of the following items in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

(a) the cash price;

(b) the amount of the downpayment or that no downpayment is required, as applicable;

(c) the number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(d) the annual percentage rate; and

(e) the deferred payment price.

12. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Section 226.4 and Section 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent's business such as assignment or sale, resulting in the emergence of a successor business, corporate or otherwise, the creation of subsidiaries, or any other change which may affect compliance obligations arising out of the order.

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 the order to cease and desist contained herein.

IN THE MATTER OF

HARRY McDOWELL, JR., DOING BUSINESS AS
BANK REPOSSESSION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE TRUTH
IN LENDING AND THE FEDERAL TRADE COMMISSION ACTS

Docket C-2110. Complaint, Nov. 29, 1971—Decision, Nov. 29, 1971

Consent order requiring a used car dealer of Birmingham, Ala., to cease violating the Truth in Lending Act by failing, in consumer credit transactions and advertisements, to make all disclosures in the manner, form and amount required by Regulation Z of the Act.

COMPLAINT

Pursuant to the provision of the Truth in Lending Act and the implementing regulation thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Harry McDowell, Jr., an individual, trading and doing business as Bank Repossession, hereinafter referred to as respondent, has violated the provisions of said Acts and implementing regulation, 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 Harry McDowell, Jr. is an individual trading and doing business as Bank Repossession with his principal place of business located at 1606 Greensprings Highway, Birmingham, Alabama.

PAR. 2. Respondent is now and for some time last past has been, engaged in the advertising for sale and retail sale of used cars to the public.

PAR. 3. In the ordinary course and conduct of his business as aforesaid, respondent regularly extends, and for some time last past has regularly extended, consumer credit as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondent in the ordinary course and conduct of his business, and in connection with his credit sales as "credit sale" is defined in Regulation Z, has caused and is causing customers to execute bills of sale contracts, hereinafter referred to as the "Bill of Sale." The bill of sale does not contain any consumer credit cost disclosures except the cash price, trade-in and the number and amount of installment payments. No other consumer credit cost disclosures are furnished to customers.

By and through the use of the bill of sale, respondent failed in any consumer credit transaction to make any disclosures determined in accordance with Sections 226.4 and 226.5 of Regulation Z at the time and in the manner, form and amount required by Sections 226.6 and 226.8 of Regulation Z.

PAR. 5. In the ordinary course of his business as aforesaid, respondent caused to be published advertisements of his goods, as "advertisement" is defined in Regulation Z. These advertisements aid, promote or assist directly or indirectly extensions of consumer credit in connection with the sale of these goods and services. By and through the use of the advertisements, respondent states that no downpayment is required in connection with a consumer credit transaction without also stating all of the following items in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

- (i) The cash price;
- (ii) The amount of the downpayment required or that no downpayment is required, as applicable;
- (iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- (iv) The amount of the finance charge expressed as an annual percentage; and
- (v) The deferred payment price.

PAR. 6. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failure to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondent has thereby violated the Federal Trade Commission Act.

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 Atlanta 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 Truth in Lending Act and the implementing regulation promulgated thereunder, and 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 Acts, 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 thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent is an individual who was trading and doing business under and by virtue of the laws of the State of Alabama, whose office and principal place of business was located at 1606 Greensprings Highway, Birmingham, Alabama.

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

It is ordered, That respondent Harry McDowell, Jr., an individual trading and doing business as Bank Repossession, or under any other name, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with any consumer credit transaction or advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit," "credit sale" and "advertisement" are defined in Regulation Z

(12 CFR § 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

Failing in any consumer credit transaction or advertising, to make all disclosures determined in accordance with Sections 226.4 and 226.5 of Regulation Z at the time and in the manner, form and amount required by Sections 226.6, 226.8 and 226.10 of Regulation Z.

It is further ordered, That a copy of this order to cease and desist shall be delivered to all present and future personnel of respondent engaged in the consummation of any credit sale or any aspect of preparation, creation, and placing of advertising, and shall secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent's business organization such as dissolution; assignment or sale resulting in the emergence of a successor business, corporate or otherwise; the creation of subsidiaries; any change of business name or trade style; or any other change which may affect compliance obligations arising out of the order.

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.

IN THE MATTER OF

KOPPERS COMPANY, INC.

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

Docket 8755. Complaint, Jan. 12, 1968—Decision, Nov. 30, 1971

Consent order requiring a chemical producer of Pittsburgh, Pa., to void its resorcinol supply contracts containing requirements or exclusive dealing provisions; to cease entering into illegal requirements contracts, discriminating in price between its customers, and acquiring resorcinol firms without prior Commission approval; and requiring respondent to grant unrestricted production licenses under its resorcinol patents to producers.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (38 Stat. 717, 15 U.S.C.A. Sec. 41, 52 Stat. 111), and by virtue of the authority vested in it by said Act, the Federal Trade Commission

having reason to believe that Koppers Company, Inc., a corporation, more particularly described and referred to hereinafter as respondent, has violated the provisions of Section 5 of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby names the previously mentioned corporation as respondent herein, and issues its complaint against the named party stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Koppers Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 436 Seventh Avenue, Pittsburgh, Pennsylvania.

PAR. 2. Respondent is a widely diversified corporation operating domestically and internationally. Domestically, respondent operates in the following fields and divisions: tar and chemicals, plastics, forest products, metal products, and, engineering and construction. The annual gross dollar volume of company-wide sales of respondent in 1965 was about \$371,000,000.

PAR. 3. Respondent, either directly or through its tar and chemicals division, is engaged in the production, sale and distribution of resorcinol. Respondent generally refers to resorcinol, its derivatives and by-products as penacol products.

Resorcinol, itself, is an organic chemical compound produced by the fusion of benzene, sulphuric acid and caustic soda. Resorcinol and resins and adhesives produced from resorcinol are important in the manufacture and production of rubber tires and belts, structural laminated timbers used externally, certain organic dyes and ultraviolet ray light absorbers, pharmaceuticals, and explosive compounds.

Respondent in its literature states that, "There are no known chemicals considered to be competitive to resorcinol per se." For the past fifteen years, respondent Koppers has enjoyed a monopoly in the production of resorcinol on a commercial scale in the United States. Respondent's production of resorcinol in 1965 amounted to about 15,000,000 pounds and gross sales of penacol products by respondent in 1965 were about \$10,362,641. In 1962, on gross sales of about \$9,391,000 of penacol products, respondent earned a net profit of about \$3,103,000.

PAR. 4. Respondent produces resorcinol at its plant located at Petrolia, Pennsylvania and distributes resorcinol and resorcinol products to customers located in states other than the State of Pennsylvania. There has been, and is now, a pattern and course of interstate commerce in resorcinol and resorcinol products by respondent within the intent and meaning of the Federal Trade Commission Act.

PAR. 5. Respondent, Koppers would now be in substantial competition in the commercial production sale and distribution of resorcinol in the United States with other commercial producers of resorcinol were it not for certain unfair methods of competition and certain unfair acts and practices of the respondent as hereinafter set forth.

PAR. 6. In the course and conduct of its business in commerce as above described, respondent has engaged and is now engaged in certain acts and practices with the intent and purpose of fostering, promoting and maintaining its monopolistic position as the sole domestic producer of resorcinol on a commercial scale. Among the acts and practices employed and now being employed by respondent in furtherance of its monopoly, but not limited thereto, have been the use of persuasion, intimidation, threats, coercion, price cuts, and long-term requirements contracts.

Examples of such acts and practices of respondent are the following:

(a) In March 1965, two of respondent's officials traveled to Birmingham, Alabama, for the purpose of conferring with and discouraging officials of United States Pipe and Foundry Company (hereinafter also referred to as U.S. Pipe) from proceeding with their plans to construct and operate a plant for the production of resorcinol on a commercial scale. In the course of the subsequent conference with officials of U.S. Pipe, respondent's officials, among other things:

(1) Expressed the hope that U.S. Pipe would not enter the resorcinol market.

(2) Portrayed a gloomy picture of U.S. Pipe's prospects in the resorcinol market.

(3) Threatened that drastic reductions in the price of resorcinol would result should U.S. Pipe decide to enter the market.

(4) Stated that respondent would be interested in a joint venture with U.S. Pipe to build a Udex benzene purification plant to channel U.S. Pipe's benzene into the commercial benzene market instead of converting it into resorcinol, provided U.S. Pipe abandoned its resorcinol plans.

(b) Shortly after the public announcement by United States Pipe and Foundry Company in April 1965, that it was constructing a plant for the production of resorcinol, respondent moved to foreclose U.S. Pipe from entering the market through the following:

(1) Respondent began to offer reductions in the price of technical grade resorcinol of up to 31 percent; from 65½ cents per pound to a minimum of 50 cents per pound. Such price reductions, however, were to be made only to certain large volume pur-

chasers who would enter into long-term requirements contracts with respondent. Under such contracts, these customers would be obliged to purchase 80 percent to 100 percent of their resorcinol requirements from respondent for periods of three to five years. Previous resorcinol contracts with respondent had rarely been for periods in excess of one year.

(2) In order to obtain rapid acceptance of these long-term requirements contracts, respondent made the price reduction of resorcinol under these contracts retroactively available to those who would agree to sign them by a certain date.

(3) Respondent continued to press its customers to enter into such long-term requirements contracts until it had succeeded in obtaining contract commitments covering 90 percent or more of the domestic, non-competitive market for resorcinol.

(4) Respondent at this time also obtained the agreement of its two resorcinol sales agents that they would not handle any competitive resorcinol for a period of three years.

PAR. 7. Among the effects of respondent's acts and practices as above alleged in attempting to discourage and/or foreclose the entry of actual or potential rival producers into the resorcinol market, but not limited thereto, has been the failure of United States Pipe and Foundry Company to establish itself in the commercial resorcinol market as an alternate producer and/or viable competitor.

Furthermore, the existence of respondent as the sole commercial producer of resorcinol in the United States would constitute a potential hazard to the health, safety and well-being of the American people. Manufacture of resorcinol is extremely dangerous due to the risk of explosion. If respondent's present production facilities were accidentally destroyed as were the facilities of the Hayden Chemical Company in 1951, the last known producers, and were the respondent to succeed in foreclosing the resorcinol market to U.S. Pipe, there would be no plant in the United States capable of producing resorcinol on a commercial scale.

PAR. 8. The acts and practices of respondent, Koppers Company, Inc., as herein alleged, have had and do have the effect of hindering, lessening, restricting, restraining and eliminating competition in the production, sale and distribution of resorcinol; have had and do have a dangerous tendency to unduly hinder competition or to create in respondent a monopoly; have constituted an attempt to monopolize and have foreclosed markets and access to markets to actual or potential competitors in the production, sales and distribution of resorcinol; are all to the prejudice of actual or potential competitors

of respondent and to the public; and constitute each and all unfair methods of competition and unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission, by order issued December 18, 1970, having remanded this proceeding to the hearing examiner for a trial *de novo*, and thereafter by order issued May 5, 1971, having withdrawn this matter from adjudication pursuant to Section 2.34(d) of its rules; and

The respondent and complaint counsel having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the complaint which the Commission issued, 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 set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission having thereafter given careful consideration to the executed consent agreement and having determined that the relief provided by the order contained therein is adequate and appropriate in all respects to dispose of this matter, and having thereupon provisionally accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having received and duly considered comments from interested members of the public, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Koppers Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 436 Seventh Avenue, Pittsburgh, Pennsylvania.
2. The Federal Trade Commission has jurisdiction of this proceeding and of the respondent and the proceeding is in the public interest.

ORDER

It is ordered. That respondent Koppers Company, Inc., a corporation, its officers, agents, representatives, employees, successors and assigns, directly or indirectly, through any corporate or other device, in or in connection with the manufacture, sale and distribution of resorcinol in commerce within the United States, shall:

