

IN THE MATTER OF
NATIONAL DAIRY PRODUCTS CORPORATION
MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 2 (a)
OF THE CLAYTON ACT

Docket 8548. Final Order, Oct. 2, 1969—Modifying Order, July 27, 1982

This order reopens the proceeding and modifies the Commission's Final Order issued on October 2, 1969 (76 F.T.C. 392), to ease restrictions on pricing for jams, jellies and preserves, so that only those price differences that injure competition would violate the order. The Commission declined Kraft's request to rescind the order or have it expire in 1987.

ORDER MODIFYING FINAL ORDER

Whereas, a "Petition of Kraft, Inc. to Reopen And Modify Cease And Desist Order" was filed on March 10, 1982 by Kraft, Inc. the successor to National Dairy Products Corporation, pursuant to Section 2.51 of the Commission's Rules of Practice, 16 C.F.R. 2.51, wherein Kraft, Inc. seeks to have the order that was issued on October 2, 1969 rescinded or modified;

Whereas, the matter was thereafter placed on the public record for thirty (30) days pursuant to Section 2.51(c) of the Commission's Rules of Practice, 16 C.F.R. 2.51(c), during which time comments from the public were received; and

Whereas, the Commission thereafter considered the petition presented by Kraft, Inc. and all of the information submitted as comments on the petition and has determined that the petition makes a satisfactory showing that changed conditions of fact or law or that the public interest requires that the order be reopened for the purpose of modification.

Accordingly, *It is ordered*, that the matter be reopened and that the order be modified so that it will read:

It is ordered, That respondent Kraft, Inc. a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporate device, in connection with the sale or offering for sale of jam, jelly or preserve products of its Retail Foods Group, in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Discriminating, directly or indirectly in price between different purchasers of such products of like grade and quality for resale at the same level of distribution where the effect of such discrimination may be substantially to lessen competition or tend to create a

monopoly in the manufacture of jam, jelly or preserve products; *Provided, however,* that it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish any affirmative defense set forth in Sections 2(a) or 2(b) of the Clayton Act or Section 8 of the Motor Carrier Act of 1980.

It is further ordered, That respondent's request to rescind the order or to have the order expire in 1987 is denied.

IN THE MATTER OF
ASH GROVE CEMENT COMPANY

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

Docket 8785. Order, June 24, 1975—Modifying Order, July 29, 1982

This order reopens the proceeding and modifies the Commission's Order issued of June 24, 1975, (85 F.T.C. 1123) by deleting Paragraph IV from the Order, so as to allow respondent to retain the assets of its divested subsidiary, which it reacquired when the purchaser of the divested plant defaulted on its payments to respondent.

ORDER MODIFYING CEASE AND DESIST ORDER ISSUED JUNE 24, 1975

The Federal Trade Commission having considered the June 2, 1982 petition of Ash Grove Cement Company to reopen this matter and to modify the order to cease and desist issued by the Commission on June 24, 1975, and having determined that changed conditions of fact and the public interest warrant reopening and modification of the order,

It is ordered, That this matter be, and it hereby is, reopened and that Paragraph IV of the Commission's order be, and it hereby is, deleted.

Complaint

100 F.T.C.

IN THE MATTER OF

EXXON CORPORATION, ET AL.

DISMISSAL ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5
OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE
CLAYTON ACT*Docket 9130. Complaint, Aug. 10, 1979—Dismissal order, July 30, 1982*

The Federal Trade Commission has issued an order dismissing the 1979 complaint challenging Exxon's proposed acquisition of Reliance Electric Company, finding that, ". . . the acquisition would not have had competitive effects of the magnitude of those anticipated by the company and the Commission in 1979." The dismissed complaint alleged that the acquisition would eliminate Exxon as an actual potential entrant into the U.S. electronic variable speed industrial drives market.

*Appearances*For the Commission: *David W. Long.*For the respondents: *Robert M. Saylor, Covington & Burling,*
Washington, D.C.

COMPLAINT

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

THE RESPONDENTS

1. Respondent Exxon Corporation (hereinafter "Exxon") is a New Jersey corporation with its principal office at 1251 Avenue of the Americas, New York, New York. Respondent Enco, Incorporated ("Enco") is a Delaware corporation with its principal office at the same address. It is a wholly-owned subsidiary of Exxon.
2. Exxon is the largest industrial corporation in the world in assets, and is the second largest in sales. Its principal business is the production, transportation and refining of crude oil, but it is also a

major producer of plastics, petrochemicals and other petroleum-based products. Exxon is also engaged in non-petroleum extractive industries such as copper, coal and uranium, and has been expanding into electronic communication and data handling, semiconductors, solar energy and other technological industries.

3. At all times relevant herein, Exxon sold and shipped its products throughout the United States, and engaged in or affected interstate commerce within the meaning of Section 1 of the Clayton Act, 15 U.S.C. 12, and Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44. The acquisition described in paragraphs 5 and 6 of this complaint likewise is in or affecting interstate commerce within the meaning of those statutes.

THE ACQUISITION

4. Reliance Electric Company (hereinafter "Reliance") is a Delaware corporation with its principal place of business at 29325 Chagrin Blvd., Cleveland, Ohio. Reliance is a leading manufacturer of electrical equipment and related products, as well as scales and balances, and also has a sizeable telecommunications business. In fiscal year 1978, Reliance had sales of \$966.3 million and assets of \$613.2 million, ranking it 262nd and 288th, respectively, on the Fortune 500 lists of American industrial corporations. Reliance's sales for fiscal year 1979, which ends in October 1979, are presently running at an annual rate of \$1.5 billion.

5. On May 25, 1979, Exxon announced its intent to initiate a cash tender offer for the purchase of any and all outstanding shares of the common stock of Reliance for \$72 per share and any and all outstanding shares of Reliance's Series A preferred stock for \$201.60 per share. On the basis of the shares outstanding as of January 31, 1979, the total value of the offer would be \$1.17 billion. The pre-announcement price of Reliance common stock was \$36.50 per share.

6. The tender offer was formally opened on June 28, 1979, by Enco. On July 11, 1979, the initial termination date of the offer, Exxon announced that the offer would be extended to July 13, 1979. On July 13, Exxon announced that over 95 percent of Reliance's common stock had been tendered.

7. On July 27, 1979, the Commission directed its attorneys to seek a preliminary injunction against consummation of the acquisition. On July 28, 1979, the United States District Court for the District of Columbia entered a temporary restraining order enjoining consummation of the acquisition pending a hearing and decision on the Commission's application for a preliminary injunction. By

order dated August 6, 1979, the district court extended the temporary restraining order until August 17, 1979.

TRADE AND COMMERCE

8. Electronic variable speed industrial drives ("EVSD") constitute a competitively significant line of commerce, or market.

9. A competitively significant geographic area in which EVSD are marketed is the United States.

10. The EVSD market is concentrated, with the four leading producers in 1977 having in excess of 55% of all sales.

11. Barriers to broad-product-line entry into the EVSD market are high.

12. Reliance is a leading producer of EVSD.

13. Exxon possesses technology that it claims would permit it to manufacture EVSD that are superior in operating characteristics and lower in cost than other EVSD currently available. Exxon has built at least two prototype or demonstration EVSD which have been installed and are operating in Exxon's refineries.

14. But for the acquisition of Reliance, in order to reap the commercial benefits of its technology, Exxon would enter the EVSD market either *de novo* or through the acquisition of a toehold company, *i.e.*, a company with a relatively small share of the EVSD market.

EFFECTS OF THE ACQUISITION

15. Exxon's acquisition of Reliance would eliminate Exxon as an actual potential entrant into the United States EVSD market, thereby eliminating the likelihood that entry by Exxon would:

- (a) decrease concentration in the market;
- (b) increase competition in the market; or
- (c) increase competition in the development of EVSD technology and products.

16. Exxon's acquisition of Reliance would likely have anticompetitive effects in the United States EVSD market, including but not limited to:

- (a) increasing the level of concentration in the market;
- (b) elevating barriers to entry into the market; or
- (c) eliminating competition in the development of EVSD technology and products.

VIOLATIONS CHARGED

17. The effect of the acquisition of Reliance by Exxon may be substantially to lessen competition or to tend to create a monopoly in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

18. Acquisition of Reliance by Exxon and Enco would constitute an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

19. By undertaking the acquisition that would give rise to the violations described in paragraphs 17. and 18., Exxon and Enco have violated Section 5(a)(1) of the Federal Trade Commission Act, as amended, 15 U.S.C. 45(a)(1).

ORDER DISMISSING COMPLAINT

On August 10, 1979, the Commission issued an administrative complaint against respondents challenging the intended acquisition of Reliance Electric Company by Exxon Corporation, through its subsidiary Enco, Incorporated. The complaint alleged that the acquisition, which was subsequently consummated pursuant to a hold-separate order¹, would eliminate Exxon as an actual potential entrant into the United States electronic variable speed industrial drives ("EVSD") market, thereby eliminating the likelihood that entry by Exxon would: (a) decrease concentration in the market; (b) increase competition in the market; or (c) increase competition in the development of EVSD technology and products. The factual premise of the complaint was that Exxon had made a breakthrough in EVSD technology and, but for the acquisition of Reliance, would enter the market either *de novo* or through the acquisition of a toehold company.

After substantial pretrial discovery, complaint counsel moved on May 14, 1982, for a dismissal of the complaint. The motion was certified to the Commission by the ALJ without a recommendation on May 17, 1982. Respondents did not file an answer.

In their motion and accompanying papers² complaint counsel have explained in detail how recent discovery has shown that Exxon, and consequently the Commission, misjudged the commercial viability of its new technology, called "alternating current synthesis" ("ACS").

¹ A temporary restraining order was issued on July 28, 1979 by United States District Judge Harold H. Greene. On August 17, 1979, District Judge John H. Pratt entered the hold-separate order. That order was modified on October 26, 1979, to exclude Reliance's "motors unit" from the hold-separate requirement and also on June 25, 1980. Certain aspects of the June 25 modification not relevant here were struck down by the Court of Appeals in December, 1980. *FTC v. Exxon Corp.*, 636 F.2d 1336 (D.C. Cir. 1980).

² The motion to dismiss and Attachments A-M were filed on the public record. Complaint counsel also filed *in camera* a lengthy memorandum in support and 68 attachments, consisting of internal Exxon documents and investigational transcripts.

Thus, rather than marketing ACS for Exxon, as Exxon had hoped, Reliance guided the company to the realization that ACS was not the breakthrough it had been thought to be and that, moreover, the prospects even for modest commercial exploitation were questionable: ACS suffered from serious reliability and serviceability problems, and its production costs were vastly greater than originally estimated. Consequently, on March 20, 1981, Exxon announced that it had abandoned its efforts to develop the ACS design. While Reliance's "ACS Group" (the unit not subject to the court's hold-separate order) explored the possibility of another technology, that effort was terminated in August, 1981.

In light of these newly discovered facts, it is now apparent that Exxon never was the significant potential entrant that it was alleged to be in the Commission's complaint. Even if Exxon had attempted to enter the EVSD market by alternative means,³ the Commission has no reason to believe that such entry, without a new technology, would have offered "a substantial likelihood of ultimately producing deconcentration of that market or other significant procompetitive effects."⁴ In any event, it now appears that the acquisition would not have had competitive effects of the magnitude of those anticipated by the company and the Commission in 1979.

The complaint is hereby dismissed.

³ Absent the Reliance acquisition, Exxon might have acquired a toehold company or continued internal development of the ACS technology. However, in either case, it would have learned eventually of the failings of ACS. This probably would have ended Exxon's interest in the EVSD market, since the company seems to have been interested in entering that market *only* as a technological innovator.

⁴ *United States v. Marine Bancorporation*, 418 U.S. 602, 633 (1974).

IN THE MATTER OF
NATIONAL ASSOCIATION OF SCUBA DIVING SCHOOLS,
INC.

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

Docket C-3094. Complaint, July 30, 1982—Decision, July 30, 1982

This consent order requires a Long Beach, Ca. corporation in connection with the issuance or authorization of various seals of approval, among other things, to cease representing that any diving equipment or product bearing their seal or insignia meets an objective standard of safety or reliability unless such equipment has been competently and credibly tested. The order bars any misrepresentations concerning the significance of any seal or insignia and requires respondent to provide those who utilize the seals with a copy of the order and a letter explaining its provisions; discontinue doing business with any user of such seals who does not comply with the order's provisions; and institute a program of reasonable surveillance to ensure compliance with the order.

Appearances

For the commission: *Dean Hansell* and *Kenneth H. Donney*.

For the respondent: *John Gaffney*, in-house counsel, Long Beach, Ca. and *Richard A. Lesser*, Hermosa Beach, Ca.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by that Act, the Federal Trade Commission, having reason to believe that the National Association of Scuba Diving Schools, Inc., ("NASDS"), a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issue its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent NASDS is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California, having its principal office and place of business at 641 West Willow Street, Long Beach, California.

PAR. 2. Respondent NASDS is a marketing and management organization, serving over 200 retail diving stores nationally. It is now and for some time last past has been engaged in the develop-

ment, offering for sale and sale of marketing and promotional devices, services, and programs for scuba diving and skin diving retail stores and equipment.

COUNT I

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of paragraphs one and two are incorporated by reference herein as if fully set forth verbatim.

PAR. 3. In the ordinary course and conduct of its business, respondent serves retail diving stores located in 40 states and the District of Columbia. It causes and has caused the conduct of business in each of these states and the District of Columbia through the U.S. mail and other facilities of interstate commerce. Respondent maintains and has maintained a substantial course of business, including the acts and practices hereinafter set forth, that is in or affects commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the ordinary course and conduct of its business, respondent has developed, offers for sale and sells to retail diving stores a seal of approval that respondent refers to as its "Seal of Excellence" and its "Seal of Acceptance". Respondent uses its seal of approval as a promotional device. The seal is elliptical in shape and in addition to bearing the name "National Association of Scuba Diving Schools" displays prominently the terms "INTEGRITY", "SAFETY", "INSTRUCTION", "SPORT", "SEAL OF ACCEPTANCE" and "SEAL OF EXCELLENCE". A copy of the seal is attached to this complaint.

PAR. 5. In the ordinary course and conduct of its business, respondent publishes a magazine, *The Diving Retailer & Professional Instructor*, which is distributed to members of the diving industry including those retail diving stores which respondent serves. In many issues of the publication respondent advertises a copy of its seal of approval as follows:

THE
PRODUCTS
PRODUCT
BACKERS
BACK.

Our customers look for this seal before they buy. It's their guarantee of quality. The NASDS Seal of Excellence is an opportunity for our individual member stores to high-light their best values in equipment systems components.

All our stores service what they sell. And when you service what you sell you learn what equipment holds up and is the best value for the money.

Only our stores stand behind their products in this way. We know our success depends on satisfied customers.

PAR. 6. In the ordinary course and conduct of its business, respondent prepares diving product advertisements that promote the seal. The advertisements depict a diving product to which the seal is attached or affixed. The advertisement copy describes the product in favorable terms and states that because of these features the product has earned the NASDS seal. The advertisements are placed in publications disseminated to the diving industry and to the general public. Respondent disseminates these advertisements, directly or indirectly, to consumers.

PAR. 7. In the ordinary course and conduct of its business, respondent offers for sale or sells sets of display signs to retail diving stores that identify departments within the store. These signs prominently feature the seal and urge consumers to look for the seal before they buy diving equipment. These signs are placed in retail diving stores where they are read by consumers. Respondent disseminates these signs, directly or indirectly, to consumers.

PAR. 8. Respondent sells price tags and decals bearing its seal of approval to retail diving stores. These price tags and decals are sold for the purpose of being and are, in fact, attached or affixed by the stores to scuba and skin diving products offered for sale to consumers.

PAR. 9. Respondent, in promoting the seal in the aforesaid manner, represents directly or by implication to consumers that the seal is attached or affixed to or used in conjunction with scuba and skin diving products only if these products have been approved by respondent either because the products had been tested or certified by respondent for safety, integrity, or excellence, or because they have met some other objective standards of performance, reliability or quality set by respondent.

PAR. 10. In truth and in fact:

a. the seal may be attached or affixed to, or used in conjunction with, products without regard to whether these products have been approved by respondent either because the products have been tested or certified for safety, integrity, or excellence by respondent, or have met some other objective standards of performance, reliability or quality set by respondent; and

b. respondent has not conducted, sponsored, commissioned or relied upon testing or certification for safety, integrity or excellence of products to which the seal has been attached, affixed or used in conjunction with; and

c. respondent has not set objective standards of performance, reliability or quality for products to which the seal has been attached, affixed or used in conjunction with.

Therefore, the aforesaid statements, representations, acts or practices by respondent are false, misleading, deceptive or unfair.

PAR. 11. The use by respondent of the aforesaid false, misleading, deceptive, or unfair statements, representations, acts or practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements, representations, acts or practices are true and into the purchase of substantial quantities of diving equipment to which the seal has been attached, affixed or used in conjunction with by reason of said erroneous and mistaken belief.

PAR. 12. The acts and practices of respondent NASDS, as herein alleged, were and are all to the prejudice and injury of the public and constituted and now constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondents, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

COUNT II

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One through Eight, inclusive, are incorporated by reference herein as if fully set forth verbatim.

PAR. 13. As a result of the acts and practices alleged in Paragraphs Four through Eight, respondent allows, authorizes, or encourages other persons, corporations, partnerships or other entities (hereinafter "users") to attach or affix its seal of approval to scuba and skin diving products as a promotional device in the selling of such products to the public.

PAR. 14. Respondent, by authorizing or encouraging users to attach or affix or use its seal in conjunction with scuba and skin diving products as a promotional device in the selling of such products, represents directly or by implication to consumers that the seal is attached or affixed to or used in conjunction with said products only if these products have been approved by respondent either because the products have been tested or certified by respondent for safety, integrity or excellence, or because they have met some other objective standards of performance, reliability or quality set by respondent.

PAR. 15. In truth and in fact:

a. respondent authorizes or encourages users to attach or affix the seal or use it in conjunction with scuba and skin diving products, without regard to whether these products have been approved by respondent either because the products have been so tested or certified by respondent for safety, integrity or excellence or have met some other objective standards of performance, reliability or quality set by respondent;

b. respondent has not conducted, sponsored, commissioned or relied upon testing or certification for safety, integrity or excellence of products to which the seal has been attached, affixed or used in conjunction with; and

c. respondent has not set objective standards of performance, reliability or quality for products to which the seal has been attached, affixed or used in conjunction with.

Therefore, the aforesaid statements, representations, acts or practices are false, misleading, deceptive or unfair.

PAR. 16. Respondent, by allowing users to attach or affix the seal of approval to scuba and skin diving products, places in the hands of such users of the seal an instrumentality whereby such users are enabled to and do represent, directly or by implication, that the products to which the seal is attached or affixed have been approved by NASDS either because the products have been tested or certified by respondent for safety, integrity, or excellence or because they have met some other objective standards of quality, reliability or performance set by respondent, without regard to whether such products have been so tested or certified or have met such standards.

Therefore, the aforesaid statements, representations acts or practices by respondent are false, misleading, deceptive or unfair.

PAR. 17. The use by respondent of the aforesaid false, misleading, deceptive, or unfair statements, representations, acts or practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements, representations, acts or practices are true and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

PAR. 18. The acts and practices of respondent NASDS, as herein alleged, were and are all to the prejudice and injury of the public and constituted, and now constitute, unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondent, as herein alleged, are continuing and will continue in the absence of the relief herein requested.



DECISION AND ORDER

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

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

the Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further confirmity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 641 West Willow Street, in the City of Long Beach, State of California.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent National Association of Scuba Diving Schools, Inc., ("NASDS"), a corporation, and its successors and assigns, and respondent's officers, agents, representatives, and employees, jointly or severally, directly or through any corporation, subsidiary, division, or other device, in connection with the issuance or authorization of various seals of approval, emblems, shields, or other insignia in or affecting commerce, as "commerce" is defined in

the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any such seal, emblem, shield, or other insignia, is attached to or affixed to or used in conjunction with any scuba diving or skin diving product, or any other product, as an assurance that such product meets an objective standard of safety or reliability or any other objective standard of quality or performance, unless such product has been competently, adequately and thoroughly tested in such a manner as reasonably to substantiate with competent and reliable evidence any such assurance and unless any connection between the tester and the product that might materially affect the weight and the credibility of the test and that is not reasonably expected by the public, such as the tester being the product's manufacturer, is fully disclosed on the seal.

2. Using or encouraging, authorizing, or allowing anyone else to use any such seal, emblem, shield, or other insignia that represents, directly or by implication, that any scuba diving or skin diving product or any other product meets an objective standard of safety or reliability or any other objective standard of quality or performance, unless such product has been competently, adequately and thoroughly tested in such a manner as reasonably to substantiate with competent and reliable evidence any such representation and unless any connection between the tester and the product that might materially affect the weight and the credibility of the test and that is not reasonably expected by the public, such as the tester being the product's manufacturer, is fully disclosed on the seal.

3. Misrepresenting, directly or by implication, the significance of any such seal, emblem, shield or other insignia.

II.

It is further ordered, That respondent shall provide all present and future persons, corporations, partnerships, or other entities who use any insignia of respondent with a copy of this Order and a letter informing such users that they can no longer use the respondent's insignia except in a manner consistent with the provisions of this Order. Respondent shall immediately stop doing business with any user of its insignia if that user acts in a manner inconsistent with the provision of this Order; and respondent shall institute a program of reasonable surveillance of all users in order to assure their compliance with this Order.

III.

It is further ordered, That respondent 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, subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the Order.

IV.

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

