

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)	
BLUE CORAL, INC., and)	DOCKET NO. 9280
BLUE CORAL-SLICK 50, INC.,)	
corporations, and)	AGREEMENT CONTAINING
BLUE CORAL-SLICK 50, LTD.,)	CONSENT ORDER TO
a limited partnership.)	CEASE AND DESIST
)	
)	

The agreement herein, by and between Blue Coral, Inc., Blue Coral-Slick 50, Inc., and Blue Coral-Slick 50, Ltd. by their duly authorized officer, hereafter sometimes referred to as respondents, and their attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Blue Coral, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1215 Valley Belt Road, Cleveland, Ohio 44131. Blue Coral-Slick 50, Inc. is a wholly owned subsidiary of Blue Coral, Inc., organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 225 E. John Carpenter Freeway, Irving, Texas 75062. Blue Coral, Inc. is the general partner in Blue Coral-Slick 50, Ltd., a limited partnership, with its principal office located at 1385 West 2200 South, Salt Lake City, Utah 84119. Its certificate of limited partnership is filed with the State of Ohio. Blue Coral, Inc., Blue Coral-Slick 50, Inc., and Blue Coral-Slick 50, Ltd. are successors-in-interest to the four corporations named as respondents in the Federal Trade Commission's complaint against Quaker State - Slick 50, Inc., Slick 50 Management, Inc., Slick 50 Products Corp., and Slick 50 Corp.

2. Respondents' predecessor corporations have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violations of Section 5(a) of the

Federal Trade Commission Act, 15 U.S.C. 45(a), and have filed an answer to such complaint denying such charges.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of facts and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. The Commission reserves the right to file an action for consumer redress pursuant to Section 19 of the Federal Trade Commission Act, 15 U.S.C. § 57b, based on the cease and desist order issued in this proceeding. Respondents hereby waive their right to assert a defense based on the statute of limitations (as provided by 15 U.S.C. § 57b(d)) in any action brought by the Commission pursuant to Section 19 of the Federal Trade Commission Act. This waiver shall expire one year following the resolution of all class action lawsuits pending against respondents or any of their predecessors or affiliates, which challenge conduct similar to that challenged by the Commission in this proceeding, but in any event not before July 1, 1999. However, the Commission will not bring any action against respondents pursuant to Section 19 of the Federal Trade Commission Act provided that, by January 1, 1999, respondents make available consumer redress consisting of either cash refunds, free products, or discount coupons redeemable against the purchase of Quaker State Corporation and Slick 50 products and services having an aggregate retail value of not less than \$10 million, not including attorney fees or administrative costs (any such discount coupons may not be redeemable for Slick 50 engine treatment exclusively). The Commission reserves the right to seek to intervene in any such class action lawsuit for the purpose of opposing any settlement that the Commission does not deem to be in the public interest (except the Commission will not object to the amount of any such settlement, so long as the aggregate retail value of such settlements, as described above, is not less than \$10 million). The respondents reserve the right to oppose any attempt by the Commission to intervene in any such

class action lawsuit. Respondents' consent to this provision shall not be construed, either expressly or by implication, to constitute an admission that the Commission has standing to obtain relief under Section 19 of the Federal Trade Commission Act. Nor shall respondents' consent to this provision be construed to constitute, either expressly or by implication, a finding or admission that any of the conduct challenged by the Commission in the complaint filed in this proceeding was either dishonest or fraudulent.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint, or that the facts as alleged in the complaint, other than the jurisdictional facts, are true.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so issued, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The mailing of the decision containing the agreed-to order to respondents' address as stated in this agreement shall constitute service. Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

9. Respondents have read the complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order.

Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

Definitions

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

"Slick 50" shall mean the aftermarket motor oil additive known as Slick 50 Automotive Engine Formula, Slick 50 Advanced Formula Engine Treatment, or any Slick 50 trademarked product of substantially similar composition.

"Motor oil product" shall mean a product for use in conjunction with or in place of fully formulated motor oil.

"Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

I.

IT IS ORDERED that respondents Blue Coral, Inc. and Blue Coral-Slick 50, Inc., corporations, and Blue Coral-Slick 50, Ltd., a limited partnership, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, labeling, packaging, offering for sale, sale, or distribution of Slick 50, or any substantially similar motor oil product containing polytetrafluoroethylene (hereinafter "PTFE"), in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

- A. Automobile engines generally have little or no protection from wear at or just after start-up unless they have been treated with such product;

- B. Automobile engines commonly experience premature failure caused by wear unless they are treated with such product; or
- C. Such product coats engine parts with a layer of PTFE; provided however, that this provision shall not prohibit any claim that relates to chemical or physical reactions between Slick 50 and metal surfaces of engine parts that is substantiated by competent and reliable scientific evidence.

II.

IT IS FURTHER ORDERED that respondents Blue Coral, Inc. and Blue Coral-Slick 50, Inc., corporations, and Blue Coral-Slick 50, Ltd., a limited partnership, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, labeling, packaging, offering for sale, sale, or distribution of Slick 50, any other engine lubricating product used in a motor vehicle and sold under the Slick 50 trademark, or any engine treatment or oil additive, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- A. Misrepresenting, in any manner, directly or by implication:
 - 1. That such product meets military specifications or the requirements, standards, or specifications of any other governmental or private organization; or
 - 2. The existence, contents, validity, results, conclusions, or interpretations of any test or study.
- B. Making any representation, in any manner, directly or by implication:
 - 1. That, compared to motor oil alone, such product:
 - a) Reduces engine wear;
 - b) Reduces engine wear by more than 50%, by up to 50%, or by any other specific quantity;
 - c) Reduces engine wear at start-up;

- d) Extends the duration of engine life; or
 - e) Lowers engine temperatures, reduces toxic emissions, increases gas mileage, or increases horsepower;
- 2. That one or any other number of treatments of such product reduces engine wear for 50,000 or any other number of miles;
 - 3. That such product has been used in a significant number or any other number of U.S. Government vehicles; or
 - 4. Regarding the performance, benefits, efficacy, attributes or use of such product,

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

III.

IT IS FURTHER ORDERED that respondents Blue Coral, Inc. and Blue Coral-Slick 50, Inc., corporations, and Blue Coral-Slick 50, Ltd., a limited partnership, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, labeling, packaging, offering for sale, sale, or distribution of any lubricating product used in a motor vehicle and sold under the Slick 50 trademark, other than any engine lubricating product, including but not limited to any fuel treatment, transmission fluid, or brake fluid, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that such product:

- A. Reduces wear on any motor vehicle part;
- B. Extends the duration of any motor vehicle part's life;
- C. Lowers engine temperatures;
- D. Reduces toxic emissions;

- E. Increases gas mileage; or
- F. Increases horsepower,

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

IV.

IT IS FURTHER ORDERED that, for five (5) years after the last date of dissemination of any representation covered by this order, respondents, their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All labeling, packaging, advertisements and promotional materials setting forth any representation covered by this order;
- B. All materials that were relied upon to substantiate any representation covered by this order; and
- C. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control, or of which they have knowledge, that contradict, qualify, or call into question such representation or the basis upon which respondents relied for such representation, including complaints from consumers or governmental entities.

V.

IT IS FURTHER ORDERED that respondents, their successors and assigns, shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the respondents 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 under this order.

VI.

IT IS FURTHER ORDERED that respondents, their successors and assigns, shall forthwith distribute a copy of this order to each of their operating divisions and to each of their officers,

agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this order, and shall obtain from each such person or entity a signed statement acknowledging receipt of the order.

VII.

IT IS FURTHER ORDERED that respondents, their successors and assigns, shall:

- A. Within thirty (30) days after the date of service of this order, send by first class certified mail, return receipt requested, to each purchaser for resale of Slick 50 with which respondents have done business since January 1, 1993, notice of this order in the form attached as Attachment A. The mailing shall not include any other documents; and
- B. In the event that respondents receive any information that subsequent to its receipt of notice of this order any purchaser for resale is using or disseminating any advertisement or promotional material specified in Attachment A, respondents shall: (1) immediately send such purchaser for resale a letter requesting that it stop using or disseminating any item specified in Attachment A and notifying it that the respondents will report its use or dissemination of any item specified in Attachment A to the Commission; and (2) within thirty (30) days notify the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, in writing, of such purchaser for resale's identity and its use or dissemination of any item specified in Attachment A.

VIII.

IT IS FURTHER ORDERED that respondents, their successors and assigns, shall, for five (5) years after the last correspondence to which they pertain, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. Copies of all signed statements obtained from persons or entities pursuant to part VI of this order;

- B. Copies of all notification letters sent to purchasers for resale pursuant to subparagraph A of part VII of this order; and
- C. Copies of documents sufficient to show any redress made available to consumers pursuant to any class action lawsuit pending against respondents or any of their affiliates, which challenges conduct similar to that challenged by the Commission in this proceeding.

IX.

IT IS FURTHER ORDERED that respondents, their successors and assigns, shall provide notification of all proposed class action settlement terms relating to any class action lawsuits pending against respondents or any of their affiliates, which challenges conduct similar to that challenged by the Commission in this proceeding, to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, in writing, at least ten (10) days before any such proposed settlement is submitted to a court for final approval.

X.

IT IS FURTHER ORDERED that this order will terminate twenty years from the date of its issuance, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

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

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

date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

XI.

IT IS FURTHER ORDERED that respondents, their successors and assigns, shall, within sixty (60) days after service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied or intend to comply with this order; and, every ninety (90) days after final court approval of any settlement of a class action lawsuit which challenges conduct similar to that challenged by the Commission in this proceeding, file with the Commission a report, in writing, disclosing the amount of consumer redress made available by the respondents pursuant to such settlement, until such time as the respondents have satisfied their obligation to make available redress pursuant to any such settlement.

Signed this _____ day of _____, 1997.

BLUE CORAL, INC.,
BLUE CORAL-SLICK 50, INC.
corporations

BLUE CORAL-SLICK 50, LTD.
a limited partnership

By: _____

Blue Coral, Inc.
Blue Coral-Slick 50, Inc.
Blue Coral-Slick 50, Ltd.

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ATTACHMENT A

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

[To be printed on respondents' letterhead]

[date]

Dear [purchaser for resale]:

As you may be aware, on July 12, 1996, the Federal Trade Commission ("FTC") issued a complaint against Quaker State - Slick 50, Inc., Slick 50 Management, Inc., Slick 50 Products Corp., and Slick 50 Corp.

In its complaint, the FTC alleged that advertisements for Slick 50 Engine Treatment ("Slick 50") have made false and unsubstantiated claims that: (1) Automobile engines generally have little or no protection from wear at or just after start-up unless they have been treated with Slick 50; (2) Automobile engines commonly experience premature failure caused by wear unless they are treated with Slick 50; (3) Slick 50 coats engine parts with a layer of PTFE; and (4) Slick 50 meets military specifications for aftermarket motor oil additives.

The FTC also alleged that advertisements for Slick 50 have made unsubstantiated claims that, compared to motor oil alone, Slick 50: (1) Reduces engine wear; (2) Reduces engine wear by more than 50%; (3) Reduces engine wear by up to 50%; (4) Reduces engine wear at start-up; (5) Extends the duration of engine life; (6) Lowers engine temperatures; (7) Reduces toxic emissions; (8) Increases gas mileage; and (9) Increases horsepower. In addition, the FTC alleged that Slick 50 advertisements made unsubstantiated claims that: (1) One treatment of Slick 50 continues to reduce engine wear for 50,000 miles; and (2) Slick 50 has been used in a significant number of U.S. Government vehicles.

Finally, the FTC alleged that Slick 50 advertisements falsely claimed that tests prove that, compared to motor oil alone, Slick 50: (1) Reduces engine wear by more than 50%; (2) Reduces engine wear by up to 50%; and (3) Reduces engine wear at start-up; and that tests prove that one treatment of Slick 50 continues to reduce engine wear for 50,000 miles.

On [date] the FTC issued a consent order to cease and desist which prohibits certain claims for Slick 50. We consented to the issuance of the order for settlement purposes only and without admitting any of the FTC's allegations that we violated the law. The order requires us to request that our distributors and

wholesalers stop using or distributing advertisements or promotional materials containing claims challenged by the FTC. As one of our distributors or wholesalers, we are required to send [purchaser for resale] this letter.

Specifically, the FTC order prohibits us in the future from making claims that (1) Automobile engines generally have little or no protection from wear at or just after start-up unless they have been treated with Slick 50; (2) Automobile engines commonly experience premature failure caused by wear unless they are treated with Slick 50; and (3) Slick 50 coats engine parts with a layer of PTFE. The order also requires that we have a reasonable basis for any performance claims we make for Slick 50 Engine Treatment or other engine lubricating product sold under the Slick 50 trademark, as well as any engine treatment or oil additive. In addition, it requires that we have a reasonable basis for certain specific claims we make for other lubricating products sold under the Slick 50 trademark.

We request your assistance by asking you to discontinue using, distributing, or relying on any of your advertising or promotional material for Slick 50 Engine Treatment received from us prior to July 1, 1997. Please also notify any of your customers who resell these products and who may have such materials to discontinue using those promotional materials. If we receive information that you are continuing to use those materials, we are required to notify the FTC of your failure to comply with this request.

Under separate cover, we will be sending you replacement promotional material that you will be able to use.

Thank you very much for your assistance.

Sincerely,

[name]
President
[respondents]

ANALYSIS OF PROPOSED CONSENT ORDER
TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Blue Coral, Inc.; Blue Coral-Slick 50, Inc.; and Blue Coral-Slick 50, Ltd. These three entities are successors in interest to Quaker State - Slick 50, Inc.; Slick 50 Management, Inc.; Slick 50 Products Corp.; and Slick 50 Corp. (all entities collectively, "respondents").

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves allegedly deceptive representations for Slick 50 engine treatment, an aftermarket motor oil additive containing particles of the polymer polytetrafluoroethylene ("PTFE"). The Commission issued a complaint on July 12, 1996, charging that advertisements for Slick 50 disseminated by the respondents made various false and unsubstantiated claims. The Commission's complaint was withdrawn from adjudication on May 12, 1997, prior to commencement of the administrative hearing, so that the Commission could consider the proposed order.

According to the FTC complaint, the respondents falsely claimed: (1) Automobile engines generally have little or no protection from wear at or just after start-up unless they have been treated with Slick 50; (2) Automobile engines commonly experience premature failure caused by wear unless they are treated with Slick 50; (3) Slick 50 coats engine parts with a layer of PTFE; and (4) Slick 50 meets military specifications for aftermarket motor oil additives. The complaint alleged the following claims as unsubstantiated: (1) Compared to motor oil alone, Slick 50: reduces engine wear, reduces engine wear by more than 50%, reduces engine wear by up to 50%, reduces engine wear at start-up, extends the duration of engine life, lowers engine temperatures, reduces toxic emissions, increases gas mileage, and increases horsepower; (2) One treatment of Slick 50 continues to reduce engine wear for 50,000 miles; and (3) Slick 50 has been used in a significant number of U.S. Government vehicles. Lastly, the complaint alleged that respondents falsely represented: (1) Tests prove that, compared to motor oil alone, Slick 50: reduces engine wear by more than 50%, reduces engine wear by up to 50%, and reduces engine wear at start-up; and (2) Tests prove that one treatment of Slick 50 continues to reduce engine wear for 50,000 miles.

The proposed consent order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the respondents from representing that: (1) Automobile engines generally have little or no protection from wear at or just after start-up unless they have been treated with Slick 50 or a similar PTFE product; (2) Automobile engines commonly experience premature failure caused

by wear unless they are treated with Slick 50 or a similar PTFE product; or (3) Slick 50 or a similar PTFE product coats engine parts with a layer of PTFE.

Part II of the proposed order prohibits the respondents from misrepresenting that any oil additive or Slick 50 engine lubricating product meets the standards of any organization and from misrepresenting tests or studies when selling such products. Part II also prohibits the respondents from making any representation about the performance, benefits, efficacy, attributes or use of such products unless, at the time they make the representation, they possess and rely upon appropriate, competent and reliable evidence that substantiates the representation.

Part III of the proposed order prohibits respondents from representing that any Slick 50 lubricating product for use in a motor vehicle, other than an engine lubricating product, reduces wear, extends the life of a part, lowers engine temperature, reduces emissions, or increases mileage or horsepower, unless, at the time they make the representation, they possess and rely upon appropriate, competent and reliable evidence that substantiates the representation.

Parts IV through IX and XI require the respondents to keep copies of advertisements making representations covered by the order; to keep records concerning those representations, including materials that they relied upon when making the representations; to notify the Commission of changes in corporate structure; to provide copies of the order to certain of respondents' personnel; to send notice of the order to purchasers for resale of Slick 50; to keep records showing that the order or notice of the order was received by or sent to appropriate persons and showing any redress made available to consumers pursuant to class action lawsuits challenging conduct similar to that challenged in the Commission's complaint; to provide notice to Commission staff prior to submitting any proposed settlement of such class action lawsuits to a court; and to file with the Commission compliance reports and reports showing any redress made available to consumers pursuant to class action lawsuits. Part X provides that the order will terminate after twenty (20) years under certain circumstances.

Additionally, Paragraph 5 of the consent agreement seeks to preserve the Commission's option to seek consumer redress under Section 19 of the Federal Trade Commission Act if the respondents do not make available redress having an aggregate retail value of at least \$10 million to consumers pursuant to class action lawsuits that challenge conduct similar to that challenged in the Commission's complaint. Paragraph 5 also reserves the Commission's right to seek to intervene in any such class action lawsuit to oppose a settlement that it believes is not in the public interest.

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