

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Robert Pitofsky, Chairman
Mary L. Azcuenaga
Janet D. Steiger
Roscoe B. Starek, III
Christine A. Varney

In the Matter of)	
SAFE BRANDS CORPORATION,)	DOCKET NO. C-3647
a corporation,)	
WARREN DISTRIBUTION, INC.,)	DECISION AND ORDER
a corporation, and)	
ARCO CHEMICAL COMPANY,)	
a corporation.)	

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

The respondents 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 complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the 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, and having duly considered the comments filed thereafter by interested persons pursuant to § 2.34 of its Rules, and having modified the order in one respect, now in further conformity with the

procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Safe Brands Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska. It is a wholly-owned subsidiary of respondent Warren Distribution, Inc. Respondent Warren Distribution, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska. Respondents Safe Brands Corporation and Warren Distribution, Inc. have their principal offices or places of business at 727 South 13th Street, Omaha, Nebraska 68102.

Respondent ARCO Chemical Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office or place of business at 3801 West Chester Pike, Newtown Square, Pennsylvania 19073.

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

DEFINITION

For purposes of this Order, the following definition shall apply:

"Competent and reliable scientific evidence" means 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, Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any antifreeze, coolant, or deicer product 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 any such product will not harm the environment, is less harmful to the environment than other products, or offers any environmental benefit, 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 such representation.

II.

IT IS FURTHER ORDERED that respondents, Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any antifreeze, coolant, or deicer product 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, about the safety or relative safety of such product for humans or animals unless, at the time of making such representation,

respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation.

III.

IT IS FURTHER ORDERED that respondents, Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, offering for sale, sale, or distribution of any propylene glycol-based antifreeze or coolant product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall disclose on the front of the container of all such products the following:

"See Back Panel for **CAUTIONARY INFORMATION**"

and shall disclose on the back of the container of all such products the following:

"CAUTIONARY INFORMATION: This Product MAY BE HARMFUL IF SWALLOWED. STORE SAFELY AWAY FROM CHILDREN AND PETS. Do not store in open or unlabeled containers."

Each disclosure shall be in a conspicuous and prominent place on the container, in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the container. The disclosure on the back of the container shall be surrounded by a one (1) point rule. The disclosure on the front of the container and the first two sentences of the disclosure on the back of the container shall be in type at least as large as the largest print type on the back of the container, except for the brand name, but, in any case, no smaller than ten (10) point type. The words "CAUTIONARY INFORMATION" on the front and back of the container shall be in bold type. The last sentence of the disclosure on the back of the container shall be in type at least as large as the type in which the majority of the printed material on the back of the container is printed.

The back of the container shall also contain the following statement, printed in type at least as large as the type in which the majority of the printed material on the back of the container is printed:

"Clean up any leaks or spills."

IV.

IT IS FURTHER ORDERED that respondents, Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any antifreeze, coolant, or deicer product 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, the level of vehicular engine protection provided by any such product, unless at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation.

V.

IT IS FURTHER ORDERED that respondents, Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any antifreeze, coolant, or deicer product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the extent to which:

- A. any such product or its package is capable of being recycled; or,
- B. recycling collection programs for such product or its package are available.

VI.

IT IS FURTHER ORDERED that the provisions of this Order shall not apply to any label or labeling printed prior to the date of service of this Order and shipped by respondents to distributors or retailers prior to one hundred (100) days after the date of service of this Order.

VII.

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

- A. All materials that were relied upon in disseminating such representation; and
- B. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

VIII.

IT IS FURTHER ORDERED that respondents shall 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.

IX.

IT IS FURTHER ORDERED that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporations such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations under this Order.

X.

This Order will terminate on March 26, 2016, 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 was never 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 shall, within sixty (60) days after service of this Order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

By the Commission, Commissioner Starek recused.



Donald S. Clark
Secretary

ISSUED: March 26, 1996