

## Syllabus

## IN THE MATTER OF

## STATE SEWING MACHINE CORPORATION ET AL.

COMPLAINT, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

*Docket 5895. Complaint, June 27, 1951—Decision, Mar. 8, 1952*

When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public and are not marked, or are not adequately marked, showing that they are of foreign origin, or if markings are covered or otherwise concealed, such public understands and believes such articles to be wholly of domestic origin.

There is among the members of the purchasing public a substantial number who have a decided preference for products, including sewing machine heads, originating in the United States, over such products originating in whole or in part in foreign countries.

Where a corporation and its three officers, engaged in the importation from Japan of sewing machine heads upon which there appeared the words "Made in Occupied Japan" or "Japan," and in the attachment to said heads of a motor, in the process of which the aforesaid words were covered and so were no longer visible, and in the sale of said products in commerce in competition with makers and sellers of domestic sewing machines and with sellers of imported machines, some of whom adequately informed the public as to the source of their said products—

- (a) Failed adequately to disclose on the said sewing machine heads—some of which were marked with a medallion upon which appeared, in small and indistinct words, "Made in Occupied Japan" or "Japan"—that said products were made in Occupied Japan; with result of placing in the hands of dealers a means to mislead and deceive the purchasing public as to the place of origin of said heads, and with tendency and capacity to lead substantial numbers of the purchasing public into the erroneous belief that their said products were of domestic origin, and with result of thereby causing substantial numbers thereof to purchase such machines, and thereby substantial trade and commerce was diverted unfairly to them from their competitors, to the substantial injury of competition in commerce; and
- (b) Without disclosing the terms and conditions of the guarantee, made such confusing and misleading statements in their advertising as "guaranteed" or "lifetime guarantee" and "State with the Lifetime Guarantee":

*Held*, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and their competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Before *Mr. Abner E. Lipscomb*, hearing examiner.

*Mr. William L. Taggart* for the Commission.

*Mr. Norman Kaliski*, of New York City, for respondents.

Complaint

48 F. T. C.

## 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 State Sewing Machine Corporation, a corporation, and Lazare Gelin, Sydel M. Empel, William J. Melson, and Dorothy B. Gelin, individually and as officers of said corporation, 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, State Sewing Machine Corporation is a corporation organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 11 West 42nd Street, New York, New York. Respondents Lazare Gelin, Sydel M. Empel, William J. Melson and Dorothy B. Gelin are President and Treasurer, Secretary, Vice President, and Vice President, respectively, of corporate respondent and acting as such officers, formulate, direct and control the policies, acts and practices of said corporation. The address of the individual respondents is the same as that of the corporate respondent.

PAR. 2. Respondents are now and have been for several years last past engaged in the sale of sewing machine heads imported by them from Japan and complete sewing machines of which said heads are a part to distributors and also to retailers who in turn sell to the purchasing public. In the course and conduct of their business, respondents cause their said products, when sold, to be transported from their place of business in the State of New York to the purchasers thereof located in various other States and maintain and at all times mentioned herein have maintained a course of trade in said products in commerce among and between the various States of the United States. Their volume of trade in said commerce has been and is substantial.

PAR. 3. When the sewing machine heads are imported by respondents, the words "Made in Occupied Japan" or "Japan" appear on the back of the vertical arm. Before the heads are sold to the purchasing public as a part of a complete sewing machine, it is necessary to attach a motor to the head in the process of which the aforesaid words are covered by the motor so that they are not visible. In some instances, said heads, when received by respondents, are marked with a medallion placed on the front of the vertical arm upon which the words "Made in Occupied Japan" or "Japan" appear. These words are, however, so small and indistinct that they do not constitute adequate notice to the public that the heads are imported.

PAR. 4. When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public and such articles are not marked or are not adequately marked showing that they are of foreign origin or if marked and the markings are covered or otherwise concealed, such purchasing public understands and believes such articles to be wholly of domestic origin.

PAR. 5. There is among the members of the purchasing public a substantial number who have a decided preference for products originating in the United States over products originating in whole or in part in foreign countries, including sewing machine heads.

PAR. 6. Respondents in their advertising make such statements as the following:

Guarantee Bond Lifetime Guarantee  
State with the Lifetime Guarantee

The use of the words "guaranteed" or "lifetime guarantee" without disclosing the terms and conditions of the guarantee is confusing and misleading to the public and purchasers and constitutes an unfair and deceptive practice.

PAR. 7. Respondents, by placing in the hands of dealers their said sewing machine heads and completed sewing machines, provide said dealers a means and instrumentality whereby they may mislead and deceive the purchasing public as to the place of origin of said heads.

PAR. 8. Respondents, in the course and conduct of their business, are in substantial competition in commerce with the makers and sellers of domestic sewing machines and also with sellers of imported machines, some of whom adequately inform the public as to the source of origin of their said product.

PAR. 9. The failure of respondents to adequately disclose on the sewing machine heads that they are manufactured in Occupied Japan has the tendency and capacity to lead substantial numbers of the purchasing public into the erroneous and mistaken belief that their said product is of domestic origin and causes substantial numbers of the purchasing public to purchase sewing machines of which said heads are a part because of their erroneous and mistaken belief.

As a result thereof, substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been and is being done to competition in commerce.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

## DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated March 8, 1952, the initial decision in the instant matter of Hearing Examiner Abner E. Lipscomb, as set out as follows, became on that date the decision of the Commission.

## INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on June 27, 1951, issued and subsequently served its complaint in the above-entitled proceeding upon the respondents State Sewing Machine Corporation, a corporation, and Lazare Gelin, Sydel M. Empel, William J. Melson and Dorothy B. Gelin, individually and as officers of said corporation, charging them with unfair and deceptive acts and practices in commerce in violation of said Act. On August 22, 1951, respondents filed an answer to said complaint. Thereafter, on October 30, 1951, at a hearing held in New York, New York, a motion was made and granted on behalf of respondents to withdraw the answer previously filed herein and to substitute therefor an answer, which was thereupon read into the record, admitting all of the material allegations of fact set forth in said complaint, except that it was stated therein that the respondent Sydel M. Empel was Secretary of the respondent corporation only until about May 1, 1951. Said answer reserved the right to submit proposed findings and conclusions and to appeal from the initial decision herein. Thereafter the proceeding regularly came on for final consideration by the above-named hearing examiner theretofore duly designated by the Commission upon said complaint and answer thereto, proposed findings and conclusions submitted by counsel for respondents, oral argument thereon not having been requested and no proposed findings having been submitted by counsel supporting the complaint; and said hearing examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent State Sewing Machine Corporation is a corporation organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business

941

## Findings

located at 11 West 42nd Street, New York, New York. Respondents Lazare Gelin, William J. Melson and Dorothy B. Gelin are President and Treasurer, Vice President, and Vice President, respectively, of the corporate respondent and, acting as such officers, formulate direct and control the policies, acts and practices of said corporation. The address of said individual respondents is the same as that of the corporate respondent.

Respondent Sydel M. Empel ceased to be employed as the Secretary of the respondent corporation on or about May 1, 1951.

PAR. 2. Respondents have been for several years last past engaged in the sale of sewing machine heads imported by them from Japan, and complete sewing machines of which said heads are a part, to distributors and also to retailers who in turn sell to the purchasing public. In the course and conduct of their business, respondents caused their said products, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States, and at all times mentioned herein have maintained a course of trade in said products in commerce among and between the various States of the United States. Their volume of trade in said commerce has been substantial.

PAR. 3. When the sewing machine heads were imported by respondents, the words "Made in Occupied Japan" or "Japan" appeared on the back of the vertical arm. Before the heads were sold to the purchasing public as a part of a complete sewing machine, it was necessary to attach a motor to the head, in the process of which the aforesaid words were covered by the motor so that they were not visible. In some instances said heads when received by respondents, were marked with a medallion placed on the front of the vertical arm upon which the words "Made in Occupied Japan" or "Japan" appeared. These words were, however, so small and indistinct that they did not constitute adequate notice to the public that the heads were imported.

PAR. 4. When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public and such articles are not marked or are not adequately marked showing that they are of foreign origin or if marked and the markings are covered or otherwise concealed, such purchasing public understands and believes such articles to be wholly of domestic origin.

PAR. 5. There is among the members of the purchasing public a substantial number who have a decided preference for products, including sewing machine heads, originating in the United States, over such products originating in whole or in part in foreign countries.

Order

48 F. T. C.

PAR. 6. Respondents in their advertising made such statements as the following:

Guarantee Bond  
Lifetime Guarantee  
State with the Lifetime  
Guarantee.

The use of the words "guaranteed" or "lifetime guarantee" without disclosing the terms and conditions of the guarantee were confusing and misleading to the public and purchasers and constituted an unfair and deceptive practice.

PAR. 7. Respondents, by placing in the hands of dealers their said sewing machine heads and completed sewing machines, provided said dealers a means and instrumentality whereby they might mislead and deceive the purchasing public as to the place of origin of said heads.

PAR. 8. Respondents, in the course and conduct of their business, were in substantial competition in commerce with the makers and sellers of domestic sewing machines and also with sellers of imported machines, some of whom adequately informed the public as to the source of origin of their said product.

PAR. 9. The failure of respondents adequately to disclose on the sewing machine heads that they were manufactured in Occupied Japan had the tendency and capacity to lead substantial numbers of the purchasing public into the erroneous and mistaken belief that their said product was of domestic origin and caused substantial numbers of the purchasing public to purchase sewing machines of which said heads were a part, because of such erroneous and mistaken belief.

As a result thereof, substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been done to competition in commerce.

#### CONCLUSION

The acts and practices of respondents, as herein found, were all to the prejudice and injury of the public and of respondents' competitors, and constituted unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

#### ORDER

*It is ordered*, That the respondents, State Sewing Machine Corporation, a corporation, Lazare Gelin, William J. Melson and Dorothy B. Gelin, individually and as officers of said corporation, and said respondents' representatives, agents and employees, directly or through

941

## Order

any corporate or other device, in connection with the offering for sale, sale or distribution of sewing machine heads or sewing machines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or distributing foreign made sewing machine heads, or sewing machines of which foreign made heads are a part, without clearly and conspicuously disclosing on the heads, in such a manner that it will not be hidden or obliterated, the country of origin thereof;

2. Representing, directly or by implication, that their sewing machine heads or sewing machines are sold under a lifetime guarantee, or that they are otherwise guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

*It is further ordered*, That the complaint herein be, and the same hereby is, dismissed as to respondent Sydel M. Emple, without prejudice to the right of the Commission to institute further proceedings against her, should future facts so warrant.

## ORDER TO FILE REPORT OF COMPLIANCE

*It is 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 the order to cease and desist [as required by said declaratory decision and order of March 8, 1952].

Complaint

48 F. T. C.

## IN THE MATTER OF

## JERROLD A. ROWLEY AND STANLEY EISENBERG TRADING AS RICHARD DONIGAN AND DISCOUNT SALES COMPANY

COMPLAINT, DECISION, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

*Docket 5726. Complaint, Dec. 20, 1949—Decision, Mar. 10, 1952*

Where an individual engaged in the interstate sale and distribution of radios, fountain pens and other articles—

- (a) Made use of sales promotion plans pursuant to which he mailed to large numbers of prospective purchasers throughout the United States, advertisements of a table radio, order blanks, explanatory letters and push cards for use in accordance with a scheme whereby the cost of a "push" was determined by the chance number secured, persons selecting by chance the feminine name corresponding with that concealed in the card's master seal received one of the radios, persons securing two specified numbers received ball point pens, others received nothing, and the purchaser of the assortment for the approximate amount realized from the sale of the punches became entitled, upon the remission thereof, to the second radio included therewith; and
- (b) Shipped and delivered, in response to hundreds of orders received as a result of the aforesaid mailing, radios and ball points to purchasers located throughout the United States; and

Thereby supplied to and placed in the hands of purchasers of his merchandise the means of conducting lotteries or games of chance in connection with the resale or distribution thereof, in contravention of an established public policy of the United States Government; in the violation of which he thus assisted and participated:

*Held*, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair acts and practices.

Before *Mr. Clyde M. Hadley*, hearing examiner.

*Mr. J. W. Brookfield, Jr.* for the Commission.

*Nash & Donnelly*, of Washington, D. C., for respondents.

## 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 Jerrold A. Rowley and Stanley Eisenberg, individuals and co-partners trading as Richard Donigan and Discount Sales Company, 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 thereto