

Syllabus

IN THE MATTER OF
DEJAY STORES, INC.

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

Docket 5793. Complaint, June 29, 1950—Decision, Apr. 10, 1952

Although the collection of honest and legitimate debt is a legal and even worthy aim, it does not justify or make legal the use of means which are false, misleading or deceptive.

As regards the respondent's appeal from the hearing examiner's initial decision in the instant matter, for reasons below set forth, the Commission was of the opinion that all the findings as to the facts contained in the initial decision were supported by reliable, probative, and substantial evidence in the record; that the conclusions contained therein were correct; that the order to cease and desist was proper upon the record and was required to provide proper relief from respondent's unfair and deceptive acts and practices; that the initial decision was proper in all respects to dispose of the proceeding; and accordingly denied the appeal.

Where a corporation engaged in the retail sale of clothing and other merchandise through a large number of stores in some twenty eastern, southeastern and midwestern states operated by its wholly-owned subsidiaries;

In seeking to obtain information as to current addresses and employment of persons to whom it had thus sold merchandise on credit through the managers of its retail stores and who were delinquent in their payment, by means of certain form letters—

- (a) Falsely represented through the use of the words "Personnel Bureau" in double postcards which they addressed to delinquent debtors at their last known address and which stated that "due to the shortage of transportation and manpower, we are unable to interview you personally" and requested the recipient to fill out and mail in the detachable portion which called for his name, address, employment and marital status and other information, that it was engaged in the business of operating a personnel management bureau or employment agency and that the information desired was to be used in connection with employment of personnel;
- (b) Thereafter represented through the use of another double postcard—upon which it displayed the words "DEJAY SERVICE CO." along with the legend "NOTICE OF GOODS FOR DELIVERY", followed by the statement "We are holding a package addressed to ----- which we have been unable to deliver because of incorrect address" and "Same will be forwarded upon receipt of the attached postal card properly filled in", in which provision was made, under the caption "CONSIGNEE'S NAME AND ADDRESS AS SHOWN ON SHIPMENT", for the name, address, and employer of the delinquent—that it had a package for the addressee and that the information requested was necessary to forward the package to such person; when in fact the only package available for delivery was one prepared by it; and

Where said corporation, following discontinuance of the use of the aforesaid postcards, in addressing references furnished by a delinquent debtor at the

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time of his purchase from it, and after return by the Post Office of requests for payment, because the delinquent addressee could not be located—

- (c) Deceptively and misleadingly represented that a certain "J. King", living in New York, had an important personal letter for the delinquent debtor which had somehow been left with or misdelivered to him by means of a form letter, in simulated hand writing which, addressed to one or more of the delinquent's references over the aforesaid name, stated "I understand that you are a friend of ----- I have an important letter for ----- so please let me have the correct address, . . . mail it to me in the enclosed envelope;" when in fact "J. King" was its credit manager and the only letter was the dun returned by the Post Office:

With the result that persons who received said letters and postcards were led to believe erroneously that it would be to their advantage to furnish information desired by said corporation which they would not have supplied had the true facts been revealed:

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

As respects the discontinuance of the use of the double postcards above described, the voluntary cessation of the practices involved was neither permanent nor in good faith, since the same practice, for the same purpose and with the same effect, although milder in form and reduced from sheer falsity to the level of "misleading and deceptive," was carried on through respondent's use of the form letter in simulated handwriting above described; and the public interest required that such continuing, although less vicious, course of conduct be stopped.

As respects respondent's appeal from the initial decision of the hearing examiner in the instant matter and respondent's objection to those findings which have to do with the use of the form letter in simulated personal handwriting: no recipient of ordinary or less than average intelligence would apprehend its real purpose, namely, to obtain information for the purpose of collecting money, but would naturally believe that the signature was that of an individual living in New York at an address not known to anyone except someone intimately familiar with that city to be a business address, with an important personal letter for the delinquent debtor, as above set out, and the facts in the record fully supported the examiner's findings that the letter and the circumstances surrounding its use were deceptive and misleading to the recipient, and that respondent itself recognized said letter as a subterfuge and decoy.

As respects said appeal and respondent's objection to the examiner's conclusion that its voluntary cessation of the use of the forms above referred to "was neither permanent nor complete nor . . . in good faith, since the same practice for the same purpose and with the same effect, although milder in form and reduced from sheer falsity to the level of 'misleading and deceptive' " was carried on through the use of the letter above described and that the public interest required that such "continuing, although less vicious, course of conduct be stopped", it appeared that the respondent did not cease the practice at which the complaint was directed, but merely changed the manner in which it engaged in the practice; and the Commission agreed with the examiner's conclusion.

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Before *Mr. Henry P. Alden* and *Mr. Frank Hier*, hearing examiners.
Mr. J. W. Brookfield, Jr. for the Commission.
Gallop, Climenko & Gould, of New York City, for respondent.

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 Dejay Stores, Inc., a corporation, hereinafter 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 issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Dejay Stores, Inc. is a corporation organized 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 114 East 23rd Street, in the city of New York, New York.

PAR. 2. Respondent is now, and for more than three years last past has been, engaged in the retail sale of clothing and other merchandise through a large number of retail stores located in practically all of the Eastern, Southeastern and Midwestern States. Such stores are operated by wholly-owned subsidiary corporations also organized under the laws of the State of Delaware. The officers of said subsidiaries are the same as the parent corporation. In the course of its business, Dejay Stores, Inc. causes and has caused its goods and merchandise to be shipped in commerce between and among the various States of the United States and there is now and has been for more than three years last past a course of trade in such merchandise by said respondent in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of its business Dejay Stores, Inc., sells large quantities of its merchandise on a credit basis, and when sales are made on credit the managers of respondent's retail stores secure information from the purchaser as to the purchaser's place of employment, residence address, and names and addresses of references. Thereafter, respondent frequently desires to obtain information as to the current addresses and employments of persons to whom respondent has sold merchandise on credit and who are delinquent in their payments. In order to obtain such information respondent registered the fictitious names, "Personnel Management Bureau," "Dejay Service Company" and "J. King" in the State of New York and under such names uses and has used and has authorized its various subsidiaries to use certain form letters or communications with

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return envelopes or return postcards, typical of which are the following:

A form letter written in simulated handwriting is sent to one or more of the references furnished by the purchaser and reads as follows:

I understand that you are a friend of
 ----- I have an important
 letter for-----so please let
 me have the correct address. Thanks.
 J. King

P. S. Please write in the address on this
 line: -----
 and mail it to me in the enclosed envelope.

A second form of communication consists of a double postcard addressed to the last known address of the delinquent debtor and reads as follows:

DEJAY SERVICE CO.
 114 East 23rd St. New York, N. Y.

NOTICE OF GOODS FOR DELIVERY

We are holding a package addressed to
 ----- which we have been
 unable to deliver because of incorrect
 address.
 Same will be forwarded upon receipt of
 the attached postal card properly filled in
 with the correct address of the above party.

DEJAY SERVICE CO.

Charge C.O.D.
 \$

with return card addressed as follows:

BUSINESS REPLY CARD
 DEJAY SERVICE CO.
 114 East 23rd Street, New York, N. Y.

(Reverse of return card)

DEJAY SERVICE CO.
 114 East 23rd St., New York, N. Y.

Date-----
 Shipment No. Charge C.O.D.
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CONSIGNEE'S NAME AND ADDRESS AS
SHOWN ON SHIPMENT

Name _____
Address _____

We will deliver this shipment only to
the above named person when the in-
formation requested below is properly
filled in.

Name _____
Name in full of consignee _____
Residence _____
Street and No. _____
City _____ State _____
Employer _____
Address _____

Package will be sent direct to the
person intended for only at their
address, and not in care of anyone
else.

NO POSTAGE NECESSARY

A third form of communication consists of a double postcard ad-
dressed to the delinquent debtor at his last known address and reads as
follows:

Due to the shortage of transpor-
tation and man power, we are unable
to interview you personally.

So please fill out detachable card
and mail in.

Respectfully yours,
PERSONNEL MANAGEMENT BUREAU.

(Return card)

Personnel Management Bureau
P. O. Box 1599
Savannah, Ga.

(Reverse of return card)

Name _____
Address _____
City _____ State _____
Employed: Yes _____ No _____ Where _____
Race _____ Married _____ Single _____
Dependents _____ Phone _____

Detach and mail immediately.

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Respondent has used other similar means of locating delinquent debtors, but the above cards are typical of the methods used.

PAR. 4. Through the use of the letter signed "J. King," respondent represented that it has a personal or business letter for the person named in the letter and that the information was desired in order to forward the letter to the person named. In truth and in fact, respondent did not have a letter of any kind for delivery to the addressee at the time of the mailing of the letter so signed.

Through the use of the name "Dejay Service Company" and the statement "Notice of Goods for Delivery" and the statement "We are holding a package which we have been unable to deliver because of incorrect address," respondent represented to the addressee thereof that it had a package for the addressee and that the information requested was desired in order to forward the package to addressee. In truth and in fact, the only package available for delivery was one prepared by respondent.

Through the use of the name "Personnel Management Bureau" and the statement mailed by respondent using that name, respondent represented that it was engaged in the business of operating a personnel management bureau or employment agency and that the information desired from the addressee was to be used in connection with employment of personnel. In truth and in fact, respondent does not, nor did it at the time such communications were mailed, operate a personnel management bureau or an employment agency.

The sole and only purpose of sending out the aforesaid letters and cards was an attempt to obtain the addresses and places of employment of persons owing delinquent accounts to respondent.

PAR. 5. Persons who received said letters and postcards above described were led to erroneously believe that respondent had a package or letter addressed to them or to the person named therein or that respondent maintained an employment office or personnel management bureau and that it would be to their advantage to furnish the requested information, and as a result of such mistaken and erroneous belief furnished information desired by respondent which they would not have otherwise supplied had the true facts been revealed.

PAR. 6. The acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce in violation of the Federal Trade Commission Act.

ORDERS AND DECISION OF THE COMMISSION

Order denying appeal from initial decision of hearing examiner and decision of the Commission and order to file report of compliance, Docket 5793, April 10, 1952, follows:

This matter came on to be heard by the Commission upon the respondent's appeal from the initial decision of the hearing examiner herein and upon briefs and oral argument of counsel in support of and in opposition to said appeal.

Respondent makes two contentions in its brief. First, that the form letter presently used by the respondent in its attempt to obtain information as to the current addresses of delinquent debtors does not constitute false, misleading, or deceptive statements or representations and that, therefore, the use of such form letter does not constitute unfair or deceptive acts or practices. Second, that because the respondent voluntarily ceased using certain forms it previously used, no order against their use is warranted. Specific exception is taken to Paragraphs Eight and Nine of the findings as to the facts; to paragraphs 1 and 2 of the conclusions; and to the order in the initial decision.

The hearing examiner's findings to which specific exception is taken are to the effect that the form letter presently used by the respondent in its efforts to obtain information as to the addresses of delinquent debtors, and the circumstances surrounding its use, are misleading and deceptive to the recipient of such form letter, and that the respondent itself recognizes such letter as a subterfuge and a decoy. The form letter presently used by the respondent is in simulated handwriting and is signed by "J. King." The letter contains the statements, "I understand that you are a friend of _____. I have an important letter for _____ so please let me have the correct address." When the local manager of one of respondent's retail stores is unable to locate a delinquent customer, he sends to the respondent's New York office a "Decoy Request." Respondent then sends the above-described form letter to references furnished by the delinquent customer at the time credit was obtained. There is nothing in the letter to indicate its real purpose or that the sender is in any way connected with the respondent. The only letter the respondent has for the delinquent debtor is one which respondent has sent to the delinquent debtor and which has been returned. These and other facts in the record fully support the hearing examiner's findings that the letter and the circumstances surrounding its use are deceptive and misleading to the recipient and that the respondent recognizes said letter as a subterfuge and decoy.

Respondent does not except to the hearing examiner's findings to the effect that the forms previously used by the respondent contained false, deceptive, and misleading representations, but does except to his conclusion that respondent's voluntary cessation of the use of such forms "was neither permanent nor complete nor was it in good faith, since the same practice for the same purpose and with the same effect,

although milder in form and reduced from sheer falsity to the level of 'misleading and deceptive,' has been and is being carried on by it through its use of the letter described in Paragraph Six of the * * * Findings as to the Facts. The public interest requires that this continuing, although less vicious course of conduct, be stopped." The Commission agrees with this conclusion. The respondent did not cease the practice at which the complaint was directed, but merely changed the manner in which it engaged in the practice.

The Commission is of the opinion that all of the findings as to the facts contained in the initial decision are supported by reliable, probative, and substantial evidence in the record; that the conclusions contained therein are correct; and that the order to cease and desist is proper upon this record and is required to provide proper relief from respondent's unfair and deceptive acts and practices.

The Commission, therefore, being of the opinion that the respondent's appeal is without merit and that the initial decision of the hearing examiner is appropriate in all respects to dispose of this proceeding:

It is ordered, That the respondent's appeal from the initial decision of the hearing examiner be, and it hereby is, denied.

It is further ordered, That the initial decision of the hearing examiner, a copy of which is attached, shall, on the 10th day of April, 1952, become the decision of the Commission.

It is further ordered, That the 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 it has complied with the order to cease and desist.

Said initial decision, thus adopted by the Commission as its decision, follows:

INITIAL DECISION BY FRANK HIER, TRIAL EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on June 29, 1950, issued and subsequently served its complaint in this proceeding upon Dejay Stores, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. After the issuance of said complaint and the filing of respondent's answer thereto, a hearing was held at which testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before Henry P. Alden, a trial examiner theretofore duly designated by the Commission. Thereafter, on May

21, 1951, the said trial examiner formally closed the proceeding and on May 31, 1951, he retired from the Government service. On June 6, 1951, the Commission designated Frank Hier as trial examiner in the place and stead of the said Henry P. Alden. Thereafter, the proceeding regularly came on for final consideration by the undersigned substituted trial examiner on the complaint, answer thereto, testimony and other evidence, proposed findings as to the facts and conclusion presented by counsel and proposed order presented by counsel in support of the allegations of the complaint, and said substituted trial 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 Dejay Stores, Inc., is a corporation organized 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 114 East 23d Street, in the City of New York, New York.

PAR. 2. Respondent is now, and for more than three years last past has been, engaged in the retail sale of clothing and other merchandise through a large number of retail stores located in approximately twenty of the Eastern, Southeastern and Midwestern States. Such stores are operated by wholly-owned subsidiary corporations also organized under the laws of the State of Delaware. The officers of said subsidiaries are the same as the parent corporation. In the course of its business, Dejay Stores, Inc., causes and has caused its goods and merchandise to be shipped in commerce between and among the various States of the United States and there is now and has been for more than three years last past a course of trade in such merchandise by said respondent in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of its business, Dejay Stores, Inc., sells large quantities of merchandise on a credit basis, and when sales are made on credit, the managers of respondent's retail stores secure information from the purchaser as to the purchaser's place of employment, residence address and names and addresses of references. Thereafter, respondent frequently desires to obtain information as to current addresses and employment of persons to whom respondent has sold merchandise on credit and who are delinquent in their payments. To obtain said information the respondent has used certain form letters.

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PAR. 4. Prior to 1943, but not since, respondent has thus used a double post card addressed to a delinquent debtor at his last known address which reads as follows:

Due to the shortage of transportation and man power, we are unable to interview you personally.

So please fill out detachable card and mail in.

Respectfully yours,

PERSONNEL MANAGEMENT BUREAU.

(Return card)

Personnel Management Bureau

P. O. Box 1599

Savannah, Ga.

(Reverse of return card)

Name _____
 Address _____
 City _____ State _____
 Employed: Yes _____ No _____ Where _____
 Race _____ Married _____ Single _____
 Dependents _____ Phone _____
 Detach and mail immediately.

PAR. 5. Prior to 1946, but not since, respondent has thus used a double post card addressed to a delinquent debtor at his last known address which reads as follows:

DEJAY SERVICE CO.

114 East 23rd St. New York, N. Y.

NOTICE OF GOODS FOR DELIVERY

We are holding a package addressed to _____
 _____ which we have been unable to deliver because of incorrect address.

Same will be forwarded upon receipt of the attached postal card properly filled in with the correct address of the above party.

DEJAY SERVICE CO.

Charge C. O. D.

\$

with return card addressed as follows:

BUSINESS REPLY CARD

DEJAY SERVICE CO.

114 East 23rd Street, New York, N. Y.

(Reverse of return card)

DEJAY SERVICE CO.

114 East 23rd St., New York, N. Y.

Date _____

Shipment No.

Charge

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CONSIGNEE'S NAME AND ADDRESS AS
SHOWN ON SHIPMENT

Name -----

Address -----

We will deliver this shipment only to the above named person when
the information requested below is properly filled in.

Name -----

Name in full of consignee

Residence -----

Street and No.

City ----- State -----

Employer -----

Address -----

Package will be sent direct to the person intended for only at their
address, and not in care of anyone else.

NO POSTAGE NECESSARY

PAR. 6. Respondent has thus used, and now uses, a form letter in
simulated handwriting, addressed to one or more references furnished
by a delinquent debtor at the time of his purchases from respondent,
which reads as follows:

I understand that you are a friend of ----- I have an
important letter for ----- so please let me have the correct
address. Thanks.

J. KING.

P. S. Please write in the address on this line :-----
and mail it to me in the enclosed envelope.

Both the enclosed envelope and the transmittal envelope bear the
address of

J. King, 10th Floor, 114 East 23rd St., New York 10, N. Y.

PAR. 7. Respondent's practice, in the use of the form letter described
above in Paragraph Six, has been, where credit has been extended and
payments are delinquent for two months or more, to write the delin-
quent customer urging him to make prompt payment. If this dun is
returned by the post office because the addressee cannot be located,
then respondent sends the form letter described in Paragraph Six
above to the references originally supplied by the customer at the
time he made his purchases and obtained credit for their payment.
"J. King" is, in fact, John King, the comptroller of respondent, who
has supervision and responsibility for collections of unpaid balances
due respondent. The purpose of such form letter is to obtain the
current address of the delinquent customer from the addressee, whose
name was given as a credit reference. Respondent had no letter of
any kind awaiting delivery to the delinquent customer, except the
"dun letter" originally sent him, which was returned by the post office
as undeliverable.

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PAR. 8. Although there is no representation or statement in this form letter described in Paragraph Six above which is literally false, nevertheless, it and the circumstances surrounding its use are deceptive and misleading to the recipient. About 500 of these letters are sent out every month by respondent, resulting in about 15% replies. Respondent's merchandise is sold to medium or lower income purchasers. Instead of being typed as a business communication, it is in simulated personal handwriting, and gives the impression of being a personal communication, rather than a commercial communication. No recipient of ordinary or less than average intelligence would apprehend its real purpose—to obtain information for the purpose of collecting money. Such a recipient would naturally believe that "J. King," an individual living in New York, at an address not known to anyone except someone intimately familiar with that city to be a business address, had an important personal letter for the delinquent debtor, which had somehow been left with or misdelivered to J. King. The letter is a subterfuge, concealing its real purpose by giving a misleading and deceptive impression of an entirely different purpose.

PAR. 9. Respondent, in spite of the denial of its credit manager, recognizes the letter described in Paragraph Six as a subterfuge and a decoy. When a local store manager is unable to locate a delinquent customer to enforce collection of an unpaid balance, he as a regular and current practice sends into respondent's New York office a printed form as follows:

F 115
STORE _____ Date _____

DECOY REQUEST

Home Office:

The following account moved or skipped and I cannot trace it from here. Send decoys as indicated below. Needless delay may kill all chances to locate the account.

	Mrs.
Acct. No. _____	Mr. _____
	Miss Print or Type Full Name
Bal. \$ _____	Former _____
	N. G.
DLP. _____	Address _____
	City and State

PLEASE DECOY THE FOLLOWING:

1. _____

2. -----

Make Notation of This Request on Your Lease Card so That You
Won't Duplicate Request Using Same Decoys. Write Addi-
tional Decoys on Reverse Side.

TYPEWRITE, WRITE OR PRINT LEGIBLY

Under the legend "Please decoy the following" is filled in the names and addresses of references previously given with any notation as to their blood or marital relationship to the delinquent customer, whereupon respondent from its New York office initiates and uses the procedure hereinabove described in Paragraph Seven.

PAR. 10. Through the use of the double post card described in Paragraph Five, supra, respondent has represented to the addressee thereof that it had a package for the addressee and that the information requested was necessary in order to forward the package to addressee, whereas the only package available for delivery was one prepared by respondent.

PAR. 11. Through the use of the name "Personnel Management Bureau" and the statement mailed by respondent using that name, respondent represented that it was engaged in the business of operating a personnel management bureau or employment agency and that the information desired from the addressee was to be used in connection with employment of personnel. In truth and in fact, respondent does not, nor did it at the time such communications were mailed, operate a personnel management bureau or an employment agency.

PAR. 12. The sole purpose of the use of the cards described in Paragraphs Four and Five, supra, was an attempt to obtain the addresses and places of employment of persons owing delinquent accounts to respondent.

PAR. 13. Persons who received said letters and post cards above described were led to erroneously believe that respondent had a package addressed to them or to the person named therein or that respondent maintained an employment office or personnel management bureau and that it would be to their advantage to furnish the requested information, and as a result of such mistaken and erroneous belief furnished information desired by respondent which they would not have otherwise supplied had the true facts been revealed.

CONCLUSIONS

1. The aforesaid acts and practices of respondent Dejay Stores, Inc., as hereinabove found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce

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within the intent and meaning of the Federal Trade Commission Act.

2. Respondent's voluntary cessation of the practices hereinabove described in connection with the cards described in Paragraphs Four and Five of the above Findings as to the Facts was neither permanent nor complete nor was it in good faith, since the same practice for the same purpose and with the same effect, although milder in form and reduced from sheer falsity to the level of "misleading and deceptive," has been and is being carried on by it through its use of the letter described in Paragraph Six of the above Findings as to the Facts. The public interest requires that this continuing, although less vicious course of conduct, be stopped.

3. Although the collection of honest and legitimate debt is a legal and even worthy aim, it does not justify nor make legal the use of means which are false, misleading or deceptive.

ORDER.

It is ordered, That respondent Dejay Stores, Inc., a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in connection with the use in commerce, as "commerce" is defined in the Federal Trade Commission Act, of double reply postal cards, letters, or any other printed or written material of a substantially similar nature, do forthwith cease and desist from:

1. Using the name "Personnel Management Bureau," or any other word or words of similar import, to designate, describe or refer to respondent's business, or otherwise representing, directly or by implication, that respondent is engaged in operating a personnel management bureau or employment or placement agency.

2. Using the name "Dejay Service Company," or any other word or words of similar import, to designate, describe or refer to respondent's business, or otherwise representing, directly or by implication, that respondent is connected with or in the business of transporting or delivering goods or packages to the proper recipient thereof.

3. Using post cards, form letters or other material which represents, directly or by implication, that respondent's business is other than that of retailing merchandise.

4. Representing, directly or by implication, that persons concerning whom information is sought through respondent's post cards or other material are, or may be, consignees of goods or packages, C. O. D., prepaid or otherwise, in the hands of respondent or that the information sought through such means is for the purpose of enabling respondent to make delivery of goods or packages to such persons.

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5. Using letters, whether printed, typewritten or in simulated handwriting, for the purpose of obtaining the current addresses of delinquent customers, which represent that any person, firm or corporation other than respondent, or respondent's store from which the customer purchased the merchandise on which the debt is owing, has a letter for delivery to such delinquent customer when his current address is furnished.

ORDER TO FILE REPORT OF COMPLIANCE

It is further ordered, That the 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 it has complied with in the order to cease and desist [as required by aforesaid order and decision of the Commission].

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IN THE MATTER OF

SEWING MACHINE EXCHANGE, INC. ET AL.

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

Docket 5887. Complaint, June 27, 1951—Decision, Apr. 15, 1952

When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public not marked or not adequately marked showing that they are of foreign origin, or if marked and the 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 originating in the United States over products originating in whole or in part in foreign countries, including sewing machine heads.

Where a corporation and its three officers, engaged in the competitive interstate sale to distributors and retailers of sewing machine heads imported by them from Japan, and of complete sewing machines assembled through attachment of a motor to said imported heads, in which process the words "Made in Occupied Japan" and "Japan" became covered—

Failed adequately to disclose that said heads were made in Japan, notwithstanding the presence upon the front of some of them of a medallion which bore in small and indistinct words the legend "Made in Occupied Japan" or "Japan"; and thereby placed in the hands of dealers a means and instrumentality whereby they might mislead and deceive the purchasing public as to place of origin of said heads;

With tendency and capacity to lead members of the purchasing public into the erroneous belief that their said products were of domestic origin and thereby induce purchase of sewing machines of which said heads were a part; whereby trade was unfairly diverted to them from competitors:

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. James A. Purcell*, hearing examiner.

Mr. William L. Taggart and *Mr. J. C. Williams* for the Commission.

Mr. Leonard L. Creskoff, of Philadelphia, Pa., 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 Sewing Machine Exchange, Inc., a corporation, and Willis Harris, Jerry Fineman and Manual Harris, individually and as officers of said corporation