

IN THE MATTER OF
MURRAY EPSTEIN ET AL. DOING BUSINESS AS SEAWOL
SEWING SUPPLIES

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

Docket 5894. Complaint, June 27, 1951—Decision, Sept. 4, 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 foreign markings are concealed, such public understands and believes the 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 machines.

The names "Majestic" and "Admiral" are parts of the name of corporations doing business in the United States, which are and have been well and favorably known to the purchasing public and long established in various industries, and some of them use said words as a trade name, mark or brand for their products.

Where four partners engaged in importing sewing machine heads displaying on the back of the vertical arm the words "Made in Occupied Japan" or "Japan," which became concealed when they attached a motor thereto, and in the competitive interstate sale and distribution to distributors and retailers of the complete sewing machines of which such heads were a part—

- (a) Failed adequately to disclose on said sewing machine heads that they had been manufactured in Japan; and
- (b) Falsely represented, through the adoption of the words "Majestic" and "Admiral" as a trade or brand name for their said products and the conspicuous display thereof on the front horizontal arm and use thereof in advertising, that the machines were manufactured by the well and favorably known firms with which said names were associated;

With the result of placing in the hands of dealers a means whereby they might deceive the purchasing public in the aforesaid respects and with tendency and capacity so to mislead members thereof and thereby induce purchase of their said products and of unfairly diverting trade to them from their competitors, including makers and sellers of both the domestic and imported product, of whom some adequately informed the public of the origin thereof, to the substantial injury of competition in commerce:

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.

Before *Mr. Webster Ballinger*, hearing examiner.

Mr. William L. Taggart for the Commission.

Mr. Samuel D. Robbins, of Los Angeles, Calif., 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 Murray Epstein, Lou Seaman, Ben Lander and Richard Wolochow, copartners, doing business as Seawol Sewing Supplies, 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. Respondents Murray Epstein, Lou Seaman, Ben Lander and Richard Wolochow are copartners doing business under the name of Seawol Sewing Supplies with their office and principal place of business located at 2736 West Pico Boulevard, Los Angeles, California.

PAR. 2. Respondents are now, and have been for some time 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 California 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 now 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.

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

Complaint

49 F. T. C.

covered or otherwise concealed, such purchasing 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.

PAR. 5. Respondents have adopted the use of the words "Majestic" and "Admiral" as a trade or brand name for their said machine heads and completed sewing machines which words are printed on the front horizontal arm of the head in large conspicuous letters and use such trade names in their advertising matter. The names "Majestic" and "Admiral" are parts of the name of a number of corporations transacting and doing business in the United States which are and have been well and favorably known to the purchasing public and which are and have been long established in various industries. Some of these corporations use the words "Majestic" or "Admiral" as a trade name, mark or brand for their products.

PAR. 6. By using said trade names "Majestic" and "Admiral" respondents represent to the purchasing public that their product is manufactured by the well and favorably known firms with which said names have long been associated, which is contrary to the fact.

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 and the maker thereof.

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 as well as the sellers of imported sewing machines, some of whom adequately inform the public as to the source of origin of their said products.

PAR. 9. The failure of respondents to adequately disclose on the sewing machine heads that they are manufactured in Japan and the use of the words "Majestic" and "Admiral" has the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their said product is of domestic origin, and is manufactured by the well and favorably known domestic manufacturers with which said names have long been associated, and to induce members of the purchasing public to purchase sewing machines of which these heads are a part because of such erroneous and mistaken belief. As a result thereof, trade 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 AND ORDER TO FILE REPORT OF COMPLIANCE

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 this proceeding upon the respondents named in the caption hereof, charging said respondents with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. Respondents filed their answer admitting all of the material facts alleged in said complaint and waived all intervening procedure. Thereafter, the proceeding regularly came on for final consideration by a hearing examiner of the Commission duly designated by it, on the complaint and answer thereto, and said hearing examiner, on March 6, 1952, filed his initial decision.

Within the time permitted by its Rules of Practice, the Commission, having reason to believe that said initial decision did not constitute an adequate disposition of the proceeding, issued an order placing this case on its docket for review, served on all parties its tentative decision herein and granted to them permission to file with the Commission any objections they might have to said tentative decision. Respondents not having filed any objections to said tentative decision, this proceeding regularly came on for final consideration before the Commission upon the aforesaid complaint and respondents' answer thereto; and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and being of the opinion that the hearing examiner's initial decision does not constitute an adequate disposition of this proceeding, makes this its findings as to the facts, conclusion and order to cease and desist, the same to be in lieu of the initial decision of the hearing examiner.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents Murray Epstein, Lou Seaman, Ben Lander and Richard Wolochow are copartners doing business under the name of Seawol Sewing Supplies, with their office and principal place of business located at 2736 West Pico Boulevard, Los Angeles, California.

PAR. 2. Respondents are now, and have been for some time 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 California 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 now 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 a motor is attached thereto, making a complete sewing machine, and in the process of attaching the motor the aforesaid words are covered so that they are not visible.

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.

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. 5. Respondents have adopted the use of the words "Majestic" and "Admiral" as a trade or brand name for their said machine heads and completed sewing machines, which words are printed on the front horizontal arm of the head in large conspicuous letters, and use such trade names in their advertising matter. The names "Majestic" and "Admiral" are parts of the name of a number of corporations transacting and doing business in the United States which are and have been well and favorably known to the purchasing public and which are and have been long established in various industries. Some of these corporations use the words "Majestic" or "Admiral" as a trade name, mark or brand for their products.

PAR. 6. By using said trade names "Majestic" and "Admiral" respondents represent to the purchasing public that their product is manufactured by the well and favorably known firms with which said names have long been associated, which is contrary to the facts.

198

Order

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 and the maker thereof.

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 as well as the sellers of imported sewing machines, some of whom adequately inform the public as to the source of origin of their said products.

PAR. 9. The failure of respondents to adequately disclose on the sewing machine heads that they are manufactured in Japan and the use of the words "Majestic" and "Admiral" has the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their said product is of domestic origin, and is manufactured by the well and favorably known domestic manufacturers with which said names have long been associated, and to induce members of the purchasing public to purchase sewing machines of which these heads are a part because of such erroneous and mistaken belief. As a result thereof, trade has been unfairly diverted to respondents from their competitors and substantial injury has been and is being done to competition in commerce.

CONCLUSION

The aforesaid acts and practices of respondents 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.

ORDER

It is ordered, That the respondents, Murray Epstein, Lou Seaman, Ben Lander and Richard Wolochow, individually and as copartners doing business as Seawol Sewing Supplies, or trading under any other name, and their representatives, agents and employees, directly or through 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

Order

49 F. T. C.

such a manner that it will not be hidden or obliterated, the country of origin thereof.

2. Using the words "Majestic" or "Admiral," or any simulations thereof, as brand or trade names to designate, describe or refer to their sewing machines or sewing machine heads; or representing through the use of any other words or in any other manner that sewing machines or sewing machine heads are made by anyone other than the actual manufacturers.

It is further ordered, That the respondents 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 its order.

Complaint

IN THE MATTER OF

CHRISTIAN BROKERAGE COMPANY ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (C) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCTOBER 15, 1914, AS AMENDED BY AN ACT APPROVED JUNE 19, 1936

Docket 5643. Complaint, Mar. 2, 1949—Decision, Sept. 8, 1952

Where a corporation and three individuals, officers and stockholders thereof, engaged (1) as brokers, and (2) as buyers for their own account, in the business of buying, selling and distributing flour, sugar, dried and canned fruits, canned vegetables and fish, and other miscellaneous food products; In the second phase of their said business, in connection with which they transmitted their own purchase orders for food products directly to the sellers, and the sellers invoiced and shipped said products directly to them for their own account, they assumed all risks incident to ownership, stored the products in their own warehouse, insured them, and invoiced them to their customers in their own name at prices and on terms determined by them, with resulting profit or loss—

Received and accepted, directly or indirectly, brokerage fees and other compensation in lieu thereof from the sellers from whom they purchased such food products in commerce for their own account and for resale:

Held, That such receipt and acceptance of brokerage fees or other compensation in lieu thereof from sellers on purchases of food products in commerce for their own account and for resale were in violation of Section 2 (c) of the Clayton Act, as amended by the Robinson-Patman Act.

Mr. C. G. Miles and *Mr. Edward S. Ragsdale* for the Commission.
Mr. John Ackbar Darsey, of Atlanta, Ga., for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, have violated and are now violating the provisions of subsection (c) of section 2 of the Clayton Act (U. S. C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Christian Brokerage Company, is a corporation organized and existing under the laws of the State of Georgia with its principal office and place of business located at 185 Spring Street, S. W., Atlanta, Georgia. The respondent corporation is now engaged, and for a substantial period of time since June 19, 1936, has