

IN THE MATTER OF
PHILLIPS, INC. ET AL.

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

Docket 6021. Complaint, Dec. 15, 1952¹—Decision, Apr. 7, 1953

Where a corporation and its three officers, engaged in the sale, among other things, of freezers to purchasers in the District of Columbia and adjacent States, after making arrangements whereby purchasers of said products were enrolled in a food distributing organization operated by an unaffiliated concern which entitled members to purchase frozen food items in bulk—

- (a) Represented through radio broadcasts, oral statements of their salesmen, and other advertising, that they were engaged in the operation of a food purchasing plan, that said plan was offered by them to assist participants in buying their food at wholesale prices, and that participants in such plan could eliminate the retailer and buy at wholesale prices or from a wholesaler;
- When in fact their sole connection with the food business was that they enrolled purchasers of their freezers in said plan to promote the sale of their freezers; the food distributing organization was not a wholesaler, and participants could not eliminate the retailer since many normal food requirements were not available under the plan; and the prices at which participants purchased were not wholesale prices;
- (b) Falsely represented as aforesaid that participants in the plan could effect over-all monetary savings through the general use of frozen foods in place of other forms; the facts being that frozen foods, purchased ordinarily in increased quantity through the plan, in the main cost more per edible pound than other forms;
- (c) Falsely represented that any family could reduce its expenditure for food by \$30 or more per month by participation in the plan, and that participants could purchase for 70c meat or frozen food which would cost \$1.00 at retail and thus save 30%;

The facts being that many common articles of food are not available under the plan; a participant would effect his maximum saving only by continuing to purchase no greater amounts of meat and frozen foods than were purchased through retail channels theretofore; difference in food prices was small; the monthly food bill of a family prior to participation would have to be far in excess of the usual cost for many to permit any such saving; and prices of many meats and frozen foods available through the plan were more than 70% of the retail prices;

- (d) Falsely and misleadingly represented that monetary savings could be effected by all who purchased and used their freezers, and that installment payments, calculated on a daily basis, represented cost of food consumed and also payment on a freezer;

¹ Amended.

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When in fact a substantial number of instances, purchase and use of a freezer would not result in net monetary savings; increase in expenses, including financing, operation, maintenance, and depreciation costs, would eliminate savings which might be effected through purchase of food in bulk; and

(e) Falsely represented that a participant in the plan received a freezer free or as a gift;

With capacity and tendency to mislead a substantial portion of the purchasing public into the erroneous belief that such representations were true, and thereby induce the purchase of substantial quantities of their freezers:

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. James A. Purcell*, hearing examiner.

Mr. John J. McNalley for the Commission.

Mr. Myer Koonin, of Washington, D. C., for respondents.

AMENDED 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 Phillips, Inc., a corporation, and Phillip Filderman, Mike Filderman and William Pinson, 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 amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Phillips, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal offices and place of business located at 937 F Street, N. W., Washington, D. C. The individual respondents, Phillip Filderman, Mike Filderman and William Pinson are President, Vice President and Secretary-Treasurer, respectively, of the corporate respondent, Phillips, Inc., and formulate, control and direct the affairs and policies of said corporate respondent. Said individual respondents have their offices at the same place as the corporate respondent.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the sale of electrical appliances, including freezers. Respondents have made arrangements whereby purchasers of said freezers are enrolled in a food distributing organization, operated by a concern not affiliated with respondents, which entitles members to purchase certain food items in bulk quantities.

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PAR. 3. In the course and conduct of their business, respondents cause their freezers, when sold, to be transported to the purchasers thereof at their places of residence in the District of Columbia and in States adjacent thereto, and at all times material herein have maintained a course of trade in said freezers in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, respondents, through the use of radio broadcasts and other means of advertising, and through oral statements of their salesman, have made certain representations, of which the following are typical:

. . . The Food Savings Club has one important purpose in mind. That's to make every 70 cents you spend on food do the work of a dollar. Countless Washington homeowners and homedwellers who have joined this club are doing exactly that right now! Saving 30 to 60 dollars a month, 300 to 700 dollars a year—and at the same time these families are enjoying better food than they've had in years. More steaks, and good rich meat, more nutritious vegetables, fruits and seafoods while they're saving 30 cents on every food dollar. You can do it too. Get the whole story right now—call Republic 0606. The Food Savings Club at Republic 0606.

All you do to get complete information is call Republic 0606 . . . and get the facts on the FOOD SAVINGS CLUB—an organization especially formed to help you buy your foods WHOLESale! That's right—I said WHOLESale prices. Save 30 cents on every food dollar. Enough in a few years time to maybe buy an automobile or pay off the mortgage on your home! . . .

. . . The PHILLIP'S WHOLESale FOOD PLAN offers you an unprecedented opportunity to save money on food every single month of your life. This we guarantee. Through the PHILLIP'S WHOLESale FOOD PLAN, you eat better while spending less for food—and here's how! With the cooperation of leading home freeze manufacturers and food distributors, the PHILLIP'S WHOLESale FOOD PLAN brings to your home YOUR CHOICE of any famous make home freezer . . . PLUS an unlimited selection of frozen foods in the fruit and vegetable lines—PLUS your choice of Government graded cuts of steaks, prime ribs, Kansas City beef and lamb, pork, veal, chicken, turkey and seafood—freely delivered to your door at the total cost to you of as low as one dollar a day! Now the largest single profit in the food industry is the retail store—PHILLIP'S WHOLESale FOOD PLAN eliminates the retail store . . . and this eliminates the profit . . .

. . . All of this delivered to your home at a total cost to you ranging as low as one dollar a day. That's not just for the freezer alone . . . not just for the food alone . . . but for BOTH . . . the food AND the freezer . . . All yours on easy terms as low as \$1 a DAY! How is this possible? It's simple when you understand that the retail store takes the largest single profit there is in the food industry. Phillip's Whole Food Plan eliminates the retail store—and thereby eliminates that profit. Another thing—Phillip's Wholesale Food Plan delivers right to your home . . . FREE OF CHARGE . . . thereby saving you time as well as money. To get all the facts about this unusual plan . . . phone Republic 0606.

Please accept your FREEZER FREE

(depiction of a freezer)

A "GIFT" from the savings in your food costs
during the first 18 months.

Under our system you do two things. Number one, you circumvent the retailer and buy direct from the wholesaler; and number two, you eliminate the waste in food. You do that by a greater use of frozen foods . . . every day more and more of the people are learning that frozen foods are the freshest of all foods, the healthiest of all foods, the tastiest of all foods, and actually the cheapest of all foods.

- 1) . . . You can buy day old bread at less than half price.
- 2) . . . Take advantage of seasonable buying, when certain foods are at the lowest price . . .
- 3) . . . Fix large containers of soup at a time and put it up in containers . . .
- 4) . . . Never throw away leftovers, just make sandwiches with leftovers. Wrap it, label it and freeze it . . .
- 5) . . . If you do any hunting, you don't have to give your bag surplus away. Freeze it and you can have venison . . . all year around . . .

PAR. 5. Through the use of the foregoing statements and representations and others of the same import, but not specifically set out herein, respondents represented, directly or by implication:

1. That they are engaged in the operation of a food purchasing plan.
2. That the said plan is offered by respondents to assist participants in buying their food at wholesale prices.
3. That participants in such plan can eliminate the retailer and buy at wholesale prices or from a wholesaler.
4. That participants in such plan can effect over-all monetary savings through the general use of frozen foods in place of corresponding foods in other forms.
5. That any family can reduce its expenditure for food by \$30.00 or more per month by participation in the plan offered by respondents.
6. That participants in such plan can purchase for 70¢ any meat or frozen food which, if purchased through usual retail channels, would cost \$1.00, and thus save 30 percent on the cost of meats and frozen foods.
7. That net monetary savings can be effected by all who purchase and use respondents' freezers.
8. That the installment payments, stated on a daily basis, made by a participant in such plan, represent the cost, on the same basis, of food consumed and also a payment on a freezer.
9. That a participant in such plan receives a freezer free or as a gift.

PAR. 6. The aforesaid statements and representations are false, misleading and deceptive. In truth and in fact:

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1. Respondents are engaged in the sale of freezers and other appliances; not in the food business. Their sole connection with the food business is that they enroll the purchasers of their freezers in a food purchasing plan operated by another concern with which they are in no way affiliated.

2. The food plan is not offered by respondents to assist participants in buying their food at wholesale prices. The offer is made by respondents solely for the purpose of inducing and promoting the sale of its freezers.

3. Participants in said plan cannot eliminate or discontinue patronizing retail establishments inasmuch as many of their normal food requirements are not available under said plan. The food distributing organization from which participants purchase is not a wholesaler and the prices at which participants purchase are not wholesale prices.

4. Participation in said plan for quantity purchases of meats and frozen foods requires the use of a freezer. Respondents, in advertising said plan, are seeking to sell freezers to members of the public who do not own them. Acquisition of a freezer will ordinarily be followed by increased consumption of frozen foods, such as are available under said plan, and as a consequence, a decrease in consumption of foods in other forms. In the main, frozen foods will cost more per edible pound, whether purchased through such a plan or otherwise, than corresponding foods in other available forms normally consumed by the public. No over-all saving in food costs will be accomplished by the general substitution of frozen foods for corresponding foods in other forms.

5. Many common and usual articles of food are not available under the said plan, and in consequence, a family can save nothing on the cost of those articles by participation in the plan.

A participant in the plan will effect his maximum saving only by continuing to consume no greater amounts of meat and frozen foods than were purchased through usual retail channels before participation. The food plan prices are in some instances higher, in some lower and in others identical with the usual retail prices for the same food items of the same or other brands; in any case, the difference in price is small.

For a saving of \$30 per month on the family food bill effected by participation in the plan, the family's monthly food bill prior to participation must have been far in excess of that which is usual for many families, and such participation will not in any substantial number of instances result in a saving of \$30 per month.

6. The prices of many meats and frozen foods available through said plan are more than 70 percent of the prices thereof in usual retail channels. The differences between food plan prices and current retail prices for such foods vary; prices of individual items under the food plan are sometimes the higher, and participation in the plan will not, in any substantial number of instances, result in a saving of 30 percent of the cost of meats and frozen foods.

7. In a substantial number of instances, the purchase and use of a freezer will not result in net monetary savings. In such instances the increase in expenses directly attributable to the purchase and use of a freezer will eliminate savings, if any, which may be effected through the purchase of food in bulk quantities. Among the expenses which will be thus incurred are the costs of financing where credit is used, and the costs of operation, maintenance and depreciation of the freezer.

8. Installment payments, calculated on a daily basis, which, under said plan, are applied to the cost of a freezer and an initial supply of food, do not constitute a measure of the cost, on a daily basis, to the participant of food consumed.

9. The freezers acquired by participants in said plan are not free or gifts but must be paid for.

PAR. 7. The use by respondents of the said false and misleading statements and representations has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the statements and representations contained therein are true and to induce the purchase of substantial quantities of respondents' freezers by reason of such erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

CONSENT SETTLEMENT¹

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 5, 1952, issued its complaint and on December 15, 1952, issued its amended complaint, both of

¹ The Commission's "Notice of Acceptance of Consent Settlement and Order to File Report of Compliance" in said matter follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on April 7, 1953 subject only to the condition that the respondents comply with the requirements of the following paragraph with respect to the filing of a report showing the manner and form in which they have complied with the order to cease and desist; and subject to such condition, said consent

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which were duly served on the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in violation of the provisions of said Act.

The respondents, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule 5 of the Commission's Rules of Practice, solely for the purpose of this proceeding, any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth and in lieu of the answer to said amended complaint heretofore filed and which, upon acceptance by the Commission of this settlement, is to be withdrawn from the record, hereby:

1. Admits all the jurisdictional allegations set forth in the complaint.

2. Consents that the Commission may enter the matter hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondents, in consenting to the Commission's entry of said findings as to the facts, conclusion and order to cease and desist, specifically refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law.

3. Agrees that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in Paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondents consent may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Phillips, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal offices and place of business located at 937 F Street, NW., Washington, D. C. The individual respondents, Phillip Filderman, Mike Filderman and William Pinson are President, Vice President and Treasurer, and Secretary, respectively, of

settlement was ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

It is accordingly ordered, That the respondents, Phillips, Inc., a corporation, and Phillip Filderman, Mike Filderman and William Pinson, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this notice and 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 contained in the consent settlement entered herein.

the corporate respondent, Phillips, Inc., and formulate, control and direct the affairs and policies of said corporate respondent. Said individual respondents have their offices at the same place as the corporate respondent.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the sale of electrical appliances, including freezers. Respondents have made arrangements whereby purchasers of said freezers are enrolled in a food distributing organization, operated by a concern not affiliated with respondents, which entitles members to purchase certain food items in bulk quantities.

PAR. 3. In the course and conduct of their business, respondents cause their freezers, when sold, to be transported to the purchasers thereof at their places of residence in the District of Columbia and in States adjacent thereto, and at all times material herein have maintained a course of trade in said freezers in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, respondents, through the use of radio broadcasts and other means of advertising, and through oral statements of their salesmen, have made certain representations, of which the following are typical:

... The Food Savings Club has one important purpose in mind. That's to make every 70¢ you spend on food do the work of one dollar. Countless Washington homeowners and homedwellers who have joined this club are doing exactly that right now! Saving 30 to 60 dollars a month, 300 to 700 dollars a year—and at the same time these families are enjoying better food than they've had in years. More steaks, and good rich meat, more nutritious vegetables, fruits and seafood while they're saving 30 cents on every food dollar. You can do it too. Get the whole story right now—call Republic 0606. The Food Savings Club at Republic 0606.

All you do to get complete information is call Republic 0606 . . . and get the facts on the FOOD SAVINGS CLUB—an organization especially formed to help you buy your foods WHOLESale That's right—I said WHOLESale prices. Save 30 cents on every food dollar. Enough in a few years time to maybe buy an automobile or pay off the mortgage on your home! . . .

... The PHILLIP'S WHOLESale FOOD PLAN offers you an unprecedented opportunity to save money on food every single month of your life. This we guarantee. Through the PHILLIP'S WHOLESale FOOD PLAN, you eat better while spending less for food—and here's how! With the cooperation of leading home freeze manufacturers and food distributors, the PHILLIP'S WHOLESale FOOD PLAN brings to your home YOUR CHOICE of any famous make home freezer . . . PLUS an unlimited selection of frozen foods in the fruit and vegetable lines—PLUS your choice of Government graded cuts of steaks, prime ribs, Kansas City beef and lamb, pork, veal, chicken, turkey and seafood—freely delivered to your door at the total cost to you of as low as one dollar a day! Now the largest single profit in the food industry is the retail store—PHILLIP'S WHOLESale FOOD PLAN eliminates the retail store . . . and this eliminates the profit . . .

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... All of this delivered to your home at a total cost to you ranging as low as one dollar a day. That's not just for the freezer alone ... not just for the food alone ... but for BOTH ... the food AND the freezer ... All yours on easy terms as low as \$1 a DAY! How is this possible? It's simple when you understand that the retail store takes the largest single profit there is in the food industry. Phillip's Wholesale Food Plan eliminates the retail store—and thereby eliminates that profit. Another thing—Phillip's Wholesale Food Plan delivers right to your home ... FREE OF CHARGE ... thereby saving you time as well as money. To get all the facts about this unusual plan ... phone Republic 0606.

Please accept your FREEZER FREE

(depiction of a freezer)

A "GIFT" from the savings in your food costs
during the first 18 months.

Under our system you do two things. Number one, you circumvent the retailer and buy direct from the wholesaler; and number two, you eliminate the waste in food. You do that by a greater use of frozen foods ... every day more and more of the people are learning that frozen foods are the freshest of all foods, the healthiest of all foods, the tastiest of all foods, and actually the cheapest of all foods.

- ... 1) ... You can buy day old bread at less than half price.
- 2) ... Take advantage of seasonable buying, when certain foods are at the lowest price ...
- 3) ... Fix large containers of soup at a time and put it up in containers ...
- 4) ... Never throw away leftovers, just make sandwiches with leftovers. Wrap it, label it and freeze it ...
- 5) ... If you do any hunting, you don't have to give your bag surplus away. Freeze it and you can have venison ... all year around ...

PAR. 5. Through the use of the foregoing statements and representations and others of the same import, but not specifically set out herein, respondents represented, directly or by implication:

1. That they are engaged in the operation of a food purchasing plan.
2. That the said plan is offered by respondents to assist participants in buying their food at wholesale prices.
3. That participants in such plan can eliminate the retailer and buy at wholesale prices or from a wholesaler.
4. That participants in such plan can effect over-all monetary savings through the general use of frozen foods in place of corresponding foods in other forms.
5. That any family can reduce its expenditure for food by \$30 or more per month by participation in the plan offered by respondents.
6. That participants in such plan can purchase for 70 cents any meat or frozen food which, if purchased through usual retail channels, would cost \$1, and thus save 30 percent on the cost of meats and frozen foods.

7. That net monetary savings can be effected by all who purchase and use respondents' freezers.

8. That the installment payments, stated on a daily basis, made by a participant in such plan, represent cost, on the same basis, of food consumed and also a payment on a freezer.

9. That a participant in such plan receives a freezer free or as a gift.

PAR. 6. The aforesaid statements and representations are false, misleading and deceptive. In truth and in fact:

1. Respondents are engaged in the sale of freezers and other appliances; not in the food business. Their sole connection with the food business is that they enroll the purchasers of their freezers in a food purchasing plan operated by another concern with which they are in no way affiliated.

2. The food plan is not offered by respondents to assist participants in buying their food at wholesale prices. The offer is made by respondents solely for the purpose of inducing and promoting the sale of its freezers.

3. Participants in said plan cannot eliminate or discontinue patronizing retail establishments inasmuch as many of their normal food requirements are not available under said plan. The food distributing organization from which participants purchase is not a wholesaler and the prices at which participants purchase are not wholesale prices.

4. Participation in said plan for quantity purchases of meats and frozen foods requires the use of a freezer. Respondents, in advertising said plan, are seeking to sell freezers to members of the public who do not own them. Acquisition of a freezer will ordinarily be followed by increased consumption of frozen foods, such as are available under said plan, and as a consequence, a decrease in consumption of foods in other forms. In the main, frozen foods purchased through said plan will cost more per edible pound than corresponding foods in other available forms normally consumed by the public. No overall saving in food costs will be accomplished by the general substitution of frozen foods available under said plan for corresponding foods in other forms.

5. Many common and usual articles of food are not available under the said plan, and in consequence, a family can save nothing on the cost of those articles by participation in the plan.

A participant in the plan will effect his maximum saving only by continuing to consume no greater amounts of meat and frozen foods than were purchased through usual retail channels before participation. The food plan prices are in some instances higher, in some lower, and in others identical with the usual retail prices for the same

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food items of the same or other brands; in any case, the difference in price is small.

For a savings of \$30 per month on the family food bill effected by participation in the plan, the family's monthly food bill prior to participation must have been far in excess of that which is usual for many families, and such participation will not in any substantial number of instances result in a saving of \$30 per month.

6. The prices of many meats and frozen foods available through said plan are more than 70 percent of the prices thereof in usual retail channels. The differences between food plan prices and current retail prices for such foods vary; prices of individual items under the food plan are sometimes the higher, and participation in the plan will not, in any substantial number of instances, result in a saving of 30 percent of the cost of meats and frozen foods.

7. In a substantial number of instances, the purchase and use of a freezer will not result in net monetary savings. In such instances the increase in expenses directly attributable to the purchase and use of a freezer will eliminate savings, if any, which may be effected through the purchase of food in bulk quantities. Among the expenses which will be thus incurred are the costs of financing where credit is used, and the costs of operation, maintenance and depreciation of the freezer.

8. Installment payments, calculated on a daily basis, which, under said plan, are applied to the cost of a freezer and an initial supply of food, do not constitute a measure of the cost, on a daily basis, to the participant of food consumed.

9. The freezers acquired by participants in said plan are not free or gifts but must be paid for.

PAR. 7. The use by respondents of the said false and misleading statements and representations has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the statements and representations contained therein are true and to induce the purchase of substantial quantities of respondents' freezers by reason of such erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices of respondents, as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

It is ordered, That respondents, Phillips, Inc., a corporation, and its officers, and Phillip Filderman, Mike Filderman and William Pinson, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of freezers in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, through the use of such terms as "Phillip's Wholesale Food Plan" or otherwise, that they are engaged in the operation of a plan for the purchasing of food.

2. Representing, directly or by implication, that such plan is offered for any reason other than the promotion of the sale of respondents' freezers.

3. Representing, directly or by implication, that participants in such plan can eliminate the retailer or buy at wholesale prices or from a wholesaler.

4. Representing, directly or by implication, that over-all monetary savings may be effected through the general use of frozen foods in place of corresponding foods in other forms.

5. Representing, directly or by implication, that any over-all monetary saving can be effected through participation in such plan unless, in immediate connection therewith, the amount of the expenditure for foods available through said plan which is necessary to effect such saving is disclosed.

6. Misrepresenting the difference between the price of foods available under the plan and the price of such foods in usual retail channels, or the percentage of food costs which can be saved by participation in such plan.

7. Representing that net monetary savings, however expressed, can be effected by the use of freezers purchased from respondents, unless the costs of operation, maintenance and depreciation and, in the event that the freezer is purchased on credit, the costs of such credit, are taken into account.

8. Representing that the amount of an installment payment on the purchase of a freezer or of a supply of food constitutes a measure of the cost to the participants of food consumed during such installment period.

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9. Representing that freezers which must be paid for are free or are gifts.

PHILLIPS, INC.

By [S] PHILIP FILDERMAN
President

[S] PHILIP FILDERMAN
Philip Filderman, Individually and as *President* of Phillips, Inc.

[S] MIKE FILDERMAN
Mike Filderman, Individually and as *Vice President and Treasurer* of Phillips, Inc.

[S] WILLIAM PINSON
William Pinson, Individually and as *Secretary* of Phillips, Inc.

[S] MYER KOONIN
Myer Koonin, *Attorney for Respondent*.

Washington, D. C.

FEBRUARY 17, 1953

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this the 7th day of April, 1953, subject only to the condition that the respondents shall, within sixty (60) days after service upon them of a copy of this consent settlement, 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 contained in said consent settlement.

Syllabus

IN THE MATTER OF
BELVEDERE SEWING MACHINE COMPANY, INC. ET AL.

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

Docket 5941. Complaint, Jan. 18, 1952—Decision, Apr. 9, 1953

When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public not marked to show that they are of foreign origin, or if markings are concealed, the 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.

Substantial numbers of distributors, dealers, and the purchasing public prefer to deal with concerns which manufacture the product they sell.

Where two corporations and their officers, engaged respectively in the sale and distribution of (1) sewing machine heads imported from Japan, upon which the words "Made in Occupied Japan" or "Japan" on the back of the vertical arm were covered in attaching the motor to the head, and of complete sewing machines of which such heads were a part, and of (2) similar portable sewing machines—

- (a) Failed adequately to disclose such foreign origin on the aforesaid heads; and
- (b) Represented falsely that they manufactured the sewing machine heads and sewing machines sold by them, through inclusion of the word "Manufacturers" on their letterheads;

With result that dealers were thereby provided with the means to mislead the purchasing public as to the place of origin of said heads; and with tendency and capacity to lead members of that public into the erroneous belief that said products were of domestic origin and manufactured by them, and thus induce purchase thereof; whereby trade was unfairly diverted to them from their competitors, including makers and sellers of domestic machines, and sellers of the imported products, of whom some adequately informed the public as to the source or origin of their said products:

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 and deceptive acts and practices in commerce and unfair methods of competition therein.

Before *Mr. John Lewis*, hearing examiner.

Mr. William L. Taggart for the Commission.

Mr. Franklin D. Laven, of Los Angeles, Calif., and *Crawford & Heath*, of Pasadena, Calif., for respondents.

Herbst & Herbst, of New York City, also represented Ben Krisiloff.