

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.

Complaint

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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 Belvedere Sewing Machine Company, Inc., a corporation, and Joseph Primanti, Richard H. Turner and Lewis P. Reiterman, individually and as officers of said Belvedere Sewing Machine Company, Inc., and Belvedere Sales Corporation, a corporation, and Ben Krisiloff, Richard H. Turner and Joseph Primanti, individually and as officers of said Belvedere Sales 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 Belvedere Sewing Machine Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of California with its office and principal place of business located at 1945 South Flower Street, Los Angeles, California. Respondents Joseph Primanti, Richard H. Turner and Lewis P. Reiterman are President, Vice President, and Secretary-Treasurer, respectively, of this corporate respondent and acting as such officers formulate, direct and control the policies, acts and practices of said corporation. The address of these individual respondents is the same as that of the corporate respondent, Belvedere Sewing Machine Company, Inc.

Respondent Belvedere Sales Corporation is a corporation organized and existing under and by virtue of the laws of the State of California with its office and principal place of business located at 1929 South Figueroa Street, Los Angeles, California. Respondents Ben Krisiloff, Richard H. Turner and Joseph Primanti are President, Vice President, and Secretary-Treasurer, respectively, of this corporate respondent and acting as such officers, formulate, direct and control the policies, acts and practices of said corporation. The address of these individual respondents is the same as that of corporate respondent Belvedere Sales Corporation.

PAR. 2. Respondent Belvedere Sewing Machine Company, Inc., a corporation, is now engaged, among other things, principally in the sale and distribution of sewing machine heads imported from Japan and complete sewing machines, of which sewing machine heads imported from Japan are a part, under the brand or trade name "Bel Air Imperial," to distributors and also to retailers who, in turn, sell to the purchasing public.

Respondent Belvedere Sales Corporation, a corporation, is engaged, among other things, in the sale and distribution of portable sewing machines of which heads imported from Japan are a part. The said portable sewing machines are sold and distributed through the said Belvedere Sales Corporation under the trade or brand name "Bel Air Bantam."

PAR. 3. In the course and conduct of their businesses respondents cause their said products, when sold, to be transported from their place of business in the State of California to purchasers thereof located in various other States of the United 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. 4. When the sewing machine heads are received 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. 5. 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. 6. 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. 7. Respondents on letterheads make the following statement:

Manufacturers-Cabinets-Sewing Machines
Supplies-Motors-Wholesalers

"Through the use of the word "manufacturers" respondents represent that they manufacture the sewing machine heads and sewing machines sold by them. In truth and in fact, respondents do not own or control a factory in which their products are manufactured. Substantial numbers of distributors, dealers and the purchasing public prefer to deal with concerns which manufacture the products sold by them.

PAR. 8. Respondents, by placing in the hands of dealers their said imported sewing machine heads and completed sewing machines, of which said heads are a part, provide said dealers a means and instru-

mentality whereby they may mislead and deceive the purchasing public as to the place of origin of said heads.

PAR. 9. Respondents, in the course and conduct of their business, are in substantial competition in commerce with the makers and sellers of domestic machines, as well as the sellers of imported machines, some of whom adequately inform the public as to the source of origin of their said product.

PAR. 10. The failure of respondents to adequately disclose on the sewing machine heads that they are manufactured in Japan and also the use of the word "manufacturers" have the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their said products are of domestic origin and are manufactured by them and to induce members of the purchasing public to purchase sewing machines, of which said 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. 11. 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.

CONSENT SETTLEMENT ¹

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 18, 1952, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

The respondents, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purposes of this proceeding, any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent

¹ The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, 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 9, 1953, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

settlement hereinafter set forth and in lieu of answer to said complaint, filed February 18, 1952, hereby admit:

(1) All the jurisdictional allegations set forth in the complaint.

(2) Consent that the Commission may enter the matters 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) Agree 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 respondents consent may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Belvedere Sewing Machine Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of California with its office and principal place of business located at 1945 South Flower Street, Los Angeles, California. Respondents Joseph Primanti, Richard H. Turner and Lewis P. Reiterman are President, Vice President and Secretary-Treasurer, respectively, of this corporate respondent and acting as such officers formulate, direct and control the policies, acts and practices of said corporation. The address of these individual respondents is the same as that of the corporate respondent, Belvedere Sewing Machine Company, Inc.

Respondent Belvedere Sales Corporation is a corporation organized and existing under and by virtue of the laws of the State of California with its office and principal place of business located at 1929 South Figueroa Street, Los Angeles, California. Respondents Ben Krisiloff, Richard H. Turner and Joseph Primanti are President, Vice President, and Secretary-Treasurer, respectively, of this corporate respondent and acting as such officers, formulate, direct and control the policies, acts and practices of said corporation. The address of these individual respondents is the same as that of corporate respondent Belvedere Sales Corporation.

PAR. 2. Respondent Belvedere Sewing Machine Company, Inc., a corporation, is now engaged, among other things, principally in the

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sale and distribution of sewing machine heads imported from Japan and complete sewing machines, of which sewing machine heads imported from Japan are a part, under the brand or trade name "Bel Air Imperial," to distributors and also to retailers who, in turn, sell to the purchasing public.

Respondent Belvedere Sales Corporation, a corporation, is engaged, among other things, in the sale and distribution of portable sewing machines of which heads imported from Japan are a part. The said portable sewing machines are sold and distributed through the said Belvedere Sales Corporation under the trade or brand name "Bel Air Bantam."

PAR. 3. 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 purchasers thereof located in various other States of the United 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. 4. When the sewing machine heads are received 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. 5. 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. 6. 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. 7. Respondents on letterheads make the following statement:

Manufacturers—Cabinets—Sewing Machines
Supplies—Motors—Wholesalers

Through the use of the word "manufacturers" respondents represent that they manufacture the sewing machine heads and sewing machines sold by them. In truth and in fact, respondents do not own or control a factory in which their products are manufactured. Substantial

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numbers of distributors, dealers and the purchasing public prefer to deal with concerns which manufacture the products sold by them.

PAR. 8. Respondents, by placing in the hands of dealers their said imported sewing machine heads and completed sewing machines, of which said heads are a part, 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. 9. Respondents, in the course and conduct of their business, are in substantial competition in commerce with the makers and sellers of domestic machines, as well as the sellers of imported machines, some of whom adequately inform the public as to the source of origin of their said product.

PAR. 10. The failure of respondents to adequately disclose on the sewing machine heads that they are manufactured in Japan and also the use of the word "manufacturers" have the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their said products are of domestic origin and are manufactured by them and to induce members of the purchasing public to purchase sewing machines, of which said 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, as herein found, are all to the prejudice and injury of the public and of respondents' competitors, and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

It is ordered, That respondents Belvedere Sewing Machine Company, Inc., a corporation, and its officers, and Joseph Primanti, Richard H. Turner and Lewis P. Reiterman, individually and as officers of said corporation, and Belvedere Sales Corporation, a corporation and its officers, and Ben Krisiloff, Richard H. Turner and Joseph Primanti, 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 sewing machine heads or sewing machines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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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, through the use in advertising of the word "manufacturers," or any other word or term of similar import or meaning, or in any other manner, that said respondents are the manufacturers of the sewing machine heads or sewing machines sold by them, unless and until such respondents actually own and operate, or directly and absolutely control, a manufacturing plant wherein said products are manufactured by them.

It is further ordered, That the respondents, Belvedere Sewing Machine Company, Inc., a corporation, and Joseph Primanti, Richard H. Turner, and Lewis P. Reiterman, individually and as officers of said corporation, and Belvedere Sales Corporation, a corporation, and Ben Krisiloff, Richard H. Turner, and Joseph Primanti, individually and as officers of said corporation, shall within sixty 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 this order.

[S] RICHARD H. TURNER

Vice President of BELVEDERE SEWING MACHINE COMPANY, INC., a corporation, with its office and principal place of business at 1945 South Flower Street, Los Angeles, California, and

[S] JOSEPH PRIMANTI BY

[S] RICHARD H. TURNER

[S] LEWIS P. REITERMAN

JOSEPH PRIMANTI,

RICHARD H. TURNER, and

LEWIS P. REITERMAN,

Individually and as officers of said corporation, and

[S] HARRY J. CRAWFORD per [S] RICHARD H. TURNER
CRAWFORD & HEATH

Vice President of BELVEDERE SALES CORPORATION a corporation, with office and principal place of business at 1929 South Figueroa Street, Los Angeles, California; and,

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[S] BEN KRISILOFF By [S] RICH-
ARD H. TURNER

[S] RICHARD H. TURNER,

[S] JOSEPH PRIMANTI By [S]
RICHARD H. TURNER

Attorney for respondents.

BEN KRISILOFF,

RICHARD H. TURNER, and

JOSEPH PRIMANTI,

Individually and as officers
of said corporation.

Respondents.

[S] HARRY J. CRAWFORD

December 17, 1952

The foregoing consent settlement is hereby accepted by the Federal
Trade Commission and ordered entered of record on this 9th day of
April, 1953.

Complaint

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IN THE MATTER OF
DARCO WOOL CORPORATION 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, AND OF AN ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 6075. Complaint, Jan. 7, 1953—Decision, Apr. 14, 1953

Where a corporation and its three officers, engaged in the manufacture and interstate sale and distribution of wool products as defined in the Wool Products Labeling Act—

- (a) Misbranded certain of said products described as batts or battings in that they were not stamped, tagged, or labeled as required by said Act and the Rules and Regulations promulgated thereunder; and
- (b) Misbranded batts or battings in that—marked, stamped, or labeled as “100 per cent reused wool” and “100 per cent reprocessed wool”—they contained substantial quantities of fibers other than wool:

Held, That such acts and practices, under the circumstances set forth, were in violation of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. George E. Steinmetz for the Commission.

Mr. Myron Goldman, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Darco Wool Corporation, a corporation, and Max Dabek, David Racine and Jack Dabek, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, 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 Darco Wool Corporation is a corporation, organized and existed under and by virtue of the laws of the State of New Jersey, with its office and principal place of business at 1417 Hudson Boulevard, North Bergen, New Jersey.

The individual respondents Max Dabek, David Racine and Jack Dabek are president, secretary and treasurer, respectively of respond-