

service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF
MONARCH SEWING CENTERS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 7237. Complaint, Aug. 21, 1958—Decision, Oct. 21, 1960

Consent order requiring retailers of sewing machines in Atlanta, Ga., also operating branch stores in other States, to cease using bait advertising and deceptive contests to obtain leads to prospective purchasers, representing usual prices as special and reduced, and making fictitious guarantee claims; and to reveal clearly and conspicuously on machines imported from Japan, the fact of foreign origin.

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 the parties named in the caption hereof, 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 Monarch Sewing Centers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 329 Peachtree Street, Atlanta, Georgia. This corporation was organized in April, 1957, when it purchased all the rights, interests and assets of an Alabama corporation which had the same name, officers, and stockholders.

Individual respondents Max M. Silberman, Jerome Shulman, Daniel Eberstein and Stanley Spiegel are president, vice-president, secretary and treasurer, respectively, and owners of all of the stock, of the respondent corporation. At all times mentioned herein said individual respondents formulated and put into effect the policies and activities of said corporation. Max M. Silberman's address is 49 West 24th St., New York, New York. Jerome Shulman's address is 44 E. 53rd St., New York, New York. Daniel Eberstein's address is 2493 William's Lane, Decatur, Georgia, and Stanley Spiegel's address is 630 Broadlane Road, N.W., Atlanta, Georgia.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the sale of sewing machines to the purchasing public. In the course and conduct of their business, said respondents cause and have caused their products when sold to be transported from their place of business in the State of Georgia to purchasers thereof located in various other states of the United States and in the District of Columbia. Respondents also have branch stores located in various states other than the State of Georgia 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 and the District of Columbia. Their volume of trade in said commerce has been and is substantial.

PAR. 3. In the course and conduct of their business as aforesaid, and for the purpose of inducing the purchase of their sewing machines in commerce, as "commerce" is defined in the Federal Trade Commission Act, respondents made statements and representations, in advertisements inserted in newspapers and circulars of general circulation, by means of radio and television broadcasts and other advertising media. Among and typical, but not all inclusive, of the statements and representations so made are the following:

Brand new 1957
 Portable electric sewing machine
 Guaranteed for five years
 Now you'll be able to zig-zag, button hole, darn and mend
 \$24.50 only \$1.00 weekly

* * * * *

Complaint

57 F.T.C.

Win this brand new Morse portable sewing machine—Over 200 valuable other prizes. Nothing to buy; its easy, its simple. Unscramble these Georgia cities and win . . . Plus hundreds of dollars worth of prize certificates.

* * * * *

Special for three days only Monarch reconditioned Singer portable electric. Five year guarantee. Save \$35 regular \$59.50—\$24.50 cash price. Only \$1.25 per week.

PAR 4. By and through the use of the aforementioned statements and representations, and others of similar import and meaning not specifically set out herein, respondents have represented, directly or by implication, (1) that they were making a bona fide offer to sell new portable electric sewing machines or used reconditioned Singer sewing machines for \$24.50; (2) that the advertised price was a special or reduced price; (3) that such machines were guaranteed unconditionally for five years; and (4) that they were conducting a bona fide contest the winners of which were to receive a sewing machine and other valuable gifts including cash certificates.

PAR. 5. The aforesaid representations are false, misleading and deceptive. In truth and in fact: (1) The offers to sell new and reconditioned sewing machines for \$24.50 were not genuine or bona fide offers but were made for the purpose of obtaining leads to persons interested in purchasing sewing machines. After obtaining such leads respondents or their salesmen called upon such persons at their homes or waited upon them at respondents' place of business. At such times and places respondents and their salesmen would disparage the advertised machine and would instead attempt to sell and did sell different and more expensive sewing machines. Sometimes this was done after selling, pro forma, the advertised machine and accepting a down-payment and sometimes this was done before such a sale was made. (2) The advertised sales price of these machines was not a reduced or special price but was, whenever sales of these machines were actually made, the usual and regular retail price of said machines. (3) Respondents' guarantee was not unconditional. It was limited in certain respects and this limitation was not disclosed in the advertisement or to the purchaser, except that in some cases such a disclosure was made after a sale had been consummated. (4) Respondents did not conduct a bona fide contest. Such contest was a scheme to obtain leads. Almost everyone entering the contest won a gift certificate entitling them to a discount on the purchase of a sewing machine. These certificates were valueless as the holders of such were charged the regular and usual price by the respondents for any sewing machine they may have purchased.

PAR. 6. Respondents sell certain of their sewing machines including those designated "Margaret", "Dynamic" and "Cinderella" which are imported from Japan without clearly and conspicuously disclosing on said machines that they are imported.

By failing to make such disclosure respondents have represented that said machines were manufactured in the United States.

There is a preference on the part of the purchasing public for sewing machines manufactured in the United States over those machines manufactured in Japan.

PAR. 7. Respondents in the course and conduct of their business were and are in substantial competition in commerce with other corporations, firms and individuals likewise engaged in the sale of sewing machines.

PAR. 8. The use by respondents of the foregoing false, misleading and deceptive statements and representations and the failure of respondents to adequately disclose the foreign origin of certain of their sewing machines as alleged above has had and now has a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that all such statements and representations were and are true, and that those sewing machines manufactured in Japan had been manufactured in the United States; and to induce the purchase of substantial quantities of said sewing machines as a result of these erroneous and mistaken beliefs. As a consequence thereof substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been and is being done to competition in commerce.

PAR. 9. The aforesaid acts and practices as herein alleged were and are all to the prejudice and injury of the public and of the respondents' competitors and constituted and now 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.

Mr. John W. Brookfield, Jr., supporting the complaint.

Teplin and Shulman for respondents, New York, N.Y.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

The complaint in this proceeding charges that the respondents named in the caption hereof violated the provisions of the Federal Trade Commission Act by making false and misleading statements and representations in advertisements inserted in newspapers and circulars of general circulation by means of radio and television

broadcasts and other advertising media. The complaint was issued on August 21, 1958.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order. Under the terms of the agreement the undersigned hearing examiner issued an initial decision on August 27, 1959 and the Commission, under authority of Section 3.21(a) of the Rules of Practice for Adjudicative Proceedings, ordered the case placed on its own docket for review. Thereafter on September 22, 1959 the Commission issued an order which vacated the Hearing Examiner's initial decision and remanded the case to the Hearing Examiner for further proceedings.

On August 1, 1960 the Monarch Sewing Centers, Inc., a corporation, its officers, Max M. Silberman, and Stanley Spiegel, individually and as officers of the said corporation, hereinafter referred to as respondents, their counsel, and counsel supporting the complaint entered into a second agreement for a consent order. Under this agreement in accordance with the two affidavits, annexed and made a part thereof, the complaint is dismissed as to Jerome Shulman and Daniel Eberstein. The agreement has been approved by the Director and the Assistant Director of the Bureau of Litigation and disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Monarch Sewing Centers, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 329 Peachtree Street, Atlanta, Georgia.

2. The individual respondents, Stanley Spiegel, and Max M. Silberman, are the President-General Manager, and Chairman of the Board, respectively, of the corporate respondent. (Stanley Spiegel, Daniel Eberstein and Max M. Silberman are erroneously named in the complaint as Treasurer, Secretary and President, respectively, of the corporate respondent). Said individual respondents formulate and put into effect the policies and activities of said corporation. Max M. Silberman's address is 49 W. 24th Street, New York, New York. Stanley Spiegel's address is 630 Broadlane Road, N.W., Atlanta, Georgia.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Monarch Sewing Centers, Inc., a corporation, and its officers (except Jerome Shulman), and Max M. Silberman and Stanley Spiegel, individually and as officers of the said corporation, and respondents' agents, representatives and employees (except Daniel Eberstein), directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of sewing machines or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That said merchandise is offered for sale when such offer is not a bona fide offer to sell the merchandise so offered.

2. That certain amounts are special or reduced retail prices of merchandise unless such amounts are less than the prices at which said merchandise is usually and regularly sold by respondents.

3. That respondents are conducting a "contest" in which the winners will receive prizes or gift certificates unless respondents are in fact conducting a bona fide "contest" in which the winners will receive prizes or gift certificates of actual value.

4. That certificates or other articles awarded the winners of a contest conducted by respondents are of a certain value or worth unless such certificates or other articles are in fact of the represented value or worth.

5. That any article of merchandise is guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform are clearly set forth.

It is further ordered, That respondents Monarch Sewing Centers, Inc., a corporation, and its officers (except Jerome Shulman), and Max M. Silberman and Stanley Spiegel, individually and as officers of the above named corporation, and respondents' agents, representatives and employees (except Daniel Eberstein), directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of sewing machines or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale, selling or distributing sewing machines or other merchandise manufactured in Japan, or in any other foreign country, without clearly disclosing the country of origin thereon in such a manner that it can not readily be hidden or obliterated.

It is further ordered, That the complaint be, and hereby is, dismissed as to Jerome Shulman and Daniel Eberstein.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall on the 21st day of October 1960 become the decision of the Commission; and, accordingly:

It is ordered, That respondents Monarch Sewing Centers, Inc., a corporation, Max M. Silberman and Stanley Spiegel, shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF

JAMES HIGGINS ET AL. TRADING AS
B & H DISTRIBUTING CO. ET AL.