



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Joint Statement of Chair Lina M. Khan,
Commissioner Rebecca Kelly Slaughter, and Commissioner Alvaro M. Bedoya
In the Matter of Resident Home LLC
Commission File No. 2023179**

June 22, 2022

Today, the Commission votes to enter the settlement order with Resident Home for false made in the USA claims, in violation of Section 5. A majority of Commissioners voted for this initial settlement in October and published a statement in support.¹ We now vote to enter into this final settlement.

Resident Home is the parent company of Nectar Sleep, a repeat offender already under order for false made in the USA claims.² Because Resident Home is a newly-created corporate parent of Nectar Sleep, an action for order violation directly against Resident Home would have been fraught with legal uncertainty. Instead, Commission staff pursued a *de novo* settlement against Resident Home, which now covers Resident Home and all of its subsidiaries, prohibits them from making unsubstantiated claims, and requires them to pay \$753,000 in monetary relief pursuant to a Section 19 damages theory.

Commissioners Phillips and Wilson vote against a settlement because they believe that staff could not prove that Resident Home consumers suffered \$753,000 in damages, and so the settlement illegally requires the monetary relief beyond the Commission's statutory authority. We disagree. For the reasons stated in the previous majority statement, Section 19 is the correct vehicle to require monetary relief in this matter and the quantity of monetary relief agreed on by the parties is appropriate to "redress injury."³ In any case, our dissenting colleagues dispute neither that the Commission was entitled to monetary relief (which they would have sought as civil penalties through an order enforcement action⁴) nor injunctive relief for Resident Home (which they agree can be done through an administrative action⁵).

¹ Joint Statement of Chair Lina Khan, Commissioner Rohit Chopra, and Commissioner Rebecca Kelly Slaughter In the Matter of Resident Home LLC (hereinafter "Original Joint Statement") (Oct. 8, 2021), https://www.ftc.gov/system/files/documents/public_statements/1597282/2023179khanslaughterchopraresidenthome_statement.pdf.

² Fed. Trade Comm'n, *In the Matter of Nectar Brand LLC* (Sept. 12, 2018), <https://www.ftc.gov/legal-library/browse/cases-proceedings/182-3038-nectar-brand-llc-matter>.

³ 15 U.S.C. § 57b(b). *See also* Original Joint Statement at 2; Statement of Commissioner Rohit Chopra at 3 (Oct. 8, 2021),

https://www.ftc.gov/system/files/documents/public_statements/1597266/chopra_statement_on_resident_home.pdf.

⁴ Dissenting Statement of Commissioners Noah Joshua Phillips and Christine S. Wilson In the Matter of Resident Home LLC (observing that the Commission "could choose to pursue an order enforcement action in federal court and seek civil penalties"),

https://www.ftc.gov/system/files/documents/public_statements/1597270/resident_home_dissenting_statement_wilson_and_phillips_final_0.pdf.

⁵ *Id.* (observing that the Commission "could choose to pursue a *de novo* administrative action and seek a new order").

We support staff's proposed resolution of this matter. In light of the dramatically changing legal landscape, including the Supreme Court's decision in *AMG*⁶ and recent appellate decisions,⁷ staff is operating under extraordinarily demanding conditions. We believe the result in this matter reflects Commission staff at its best, and we gladly vote to enter the settlement in this matter.

⁶ *AMG Capital Mgmt. v. Fed. Trade Comm'n*, 141 S. Ct. 1341 (2021).

⁷ *See, e.g., Jarkesy v. Sec. & Exch. Comm'n.*, 34 F.4th 446 (5th Cir. 2022).