

**Dissenting Statement of Commissioner Noah Joshua Phillips and
Commissioner Christine S. Wilson**

In the Matter of Resident Home LLC
Commission File No. 2023179
June 22, 2022

Readers should refer to our prior dissent in Resident Home. <[Link](#)>

In October 2021, the Commission voted to seek comment on a proposed consent with Resident Home LLC, the parent company of Nectar Brand LLC and DreamCloud Brand LLC, and its CEO Ran Reske. The order proposed to resolve allegations that Nectar deceptively advertised DreamCloud mattresses as “proudly made with 100% USA-made premium quality materials.” The proposed order included monetary redress of \$753,300, pursuant to Section 19 of the FTC Act. The Commission votes today to enter the proposed order unchanged.

As we explained in our joint dissent in October, we believe this settlement exceeds the clearly delineated bounds of Section 19.¹ This Section permits the Commission to secure certain monetary relief, including, *inter alia*, “the refund of money” and “the payment of damages” but expressly precludes “the imposition of any exemplary or punitive damages.”² The FTC does not have authority, under Section 19, to obtain disgorgement of ill-gotten gains, another (more penal³) form of equitable monetary relief. The statement further explained that, in our view, the monetary redress in this settlement far exceeds any injury suffered by those consumers who saw the deceptive statement and purchased a DreamCloud mattress or any reasonable estimate of damages.⁴ This fact is not disputed.

The one comment received in response to this matter supports our view. We note that we support the staff’s active enforcement of deceptive Made in USA claims and the injunctive relief contained in this order. Our disagreement with the terms of this settlement relates exclusively to the monetary relief. For the reasons stated in our prior dissent, which contains a complete distillation of our views, we respectfully dissent from the entry of this final order.

¹ Dissenting Statement of Commissioners Noah Joshua Phillips and Christine S. Wilson, *In the Matter of Resident Home LLC*, No. 2023179 (Oct. 2021), <https://www.ftc.gov/legal-library/browse/cases-proceedings/public-statements/dissenting-statement-commissioners-noah-joshua-phillips-christine-s-wilson-matter-resident-home-llc>.

² 15 U.S.C. 57b(b).

³ See *Liu v. Securities and Exchange Commission*, 140 S. Ct. 1936 (2020).

⁴ The statement in the Secretary’s letter to the effect that the amount in question represents the Commission and the defendants’ assessment of “damages” is not supported.