

June 13, 1938.

Department of National Revenues,  
Commissioner of Customs,  
Ottawa, Ont.

Re Seizure 4542-2248

Dear Sir:

In reference to the (\$44.52) deposited by us on request of the investigation department in Toronto, we were naturally very surprised that you found it necessary to assess us with this amount, as we had not to our knowledge broken any law of Canada or regulation of the custom's department. On the contrary we acted with the full knowledge of the different departments of the customs in Toronto (investigation department, chief clerk and appraisers) and according to the correspondence file #193943 of your department.

We filed with Mr. Catlow at the time together with this deposit copies of our correspondence with you and also copies of letters which we had received, together with a letter, file #193632, given to our representative Mr. Carl H. Wurker in reference to his conversation with Mr. Edward Richards of the department of customs.

We feel that under the circumstances we have been unjustly condemned, and while it hurts to have to pay the dumping duty, also being forced to pay the penalty hurts more, as it puts us in the class with criminals, when there was nothing further from our minds then to in any way avoid a regulation of the department of customs in the sale of these needles.

We were acting only as representatives of Messrs. Muller & Franke, Limbach, Germany and we were paid 25% of the price paid to the manufacturer. This 25% was a commission. Out of this 25% we had to finance the payment of the customs duty amounting to 30% on the valuation for duty purposes (\$8.45) per thousand and (\$1.50 specific duty in addition to the sales tax of 8% and excise tax of 3% both of which are levied on the customs duty paid value, as well as the cost of selling, so that while this 25% may look high at first glance, on the work which we have had to do for this 25% it is not any larger if as large as any Canadian exporter would pay for similar work on Canadian goods shipped to Germany.

You will notice from the reports by Mr. Roy, London, England, about his investigations that the valuation placed upon spring bearded needles according to Appraisers' Bulletin #3300, is at least 70-75% above the home market value in Germany, other European countries and the U.S.A. We did not remit for these goods to Muller & Franke on the basis of the home market value. We remitted to them on the valuation of (\$8.45) less the national distributor's discount of 25% and this we did with the full knowledge of the department of customs in Toronto.

We would like to point out that the reason we did not remit the whole amount to the exporters and then have them remit to us the earned commission, was on account of the restrictions enforced by the German government concerning financial transactions of foreign currency.

We understand that to certain firms your department has issued permission for a commission to be paid from the selling price to the exporter's agent in Canada.

If the ruling under which we had to pay this duty amounting to double the amount which we collected for selling these goods is made final, we would like to point out that this will put German manufacturers of needles at a great disadvantage against manufacturers of needles in the United States, who can send their agents over here and pay them both commission and expenses from the price received from the Canadian buyer.

Owing to technical reasons the hosiery mills are not able to determine how long their stock of needles will last and the great variety of different gauges and types of needles forces them to depend on quick delivery, the American needle manufacturer is in a position to fill orders within 24 hours shipping directly from an American stock; whereas the German exporter is compelled to maintain a stock with his agent in Canada in order to give satisfactory service.

German firms who are at such a long distance from the Canadian market are unable to send direct representatives to book orders for goods they manufacture. Needles are also either shipped direct from Germany to Canada or are sent into the U.S.A. and exported to Canada invoiced by the agent residing in the U.S.A., with same system of rebate of American duty paid. In this way the agent only pays to the German manufacturer the actual home market value of the needles in Germany and does not have to pay the valuation placed upon these needles for customs purposes. The difference between the home market value in Germany and the valuation (\$8.45) paid by the Canadian customer is pocketed by the agent residing in U.S.A. Surely it is not the intention of the department to place agents residing in Canada on a different footing from similar agents making their residence in the United States.

In our humble opinion, it is unfortunate that the Canadian department of customs still finds it necessary to place a valuation on spring bearded needles so high above the world price. All the good it does, if it does any, is to protect the subsidiary plant of just one American manufacturer who slips the same needles sold to Canadian manufacturers to other parts of the British Empire at 50%

of the Canadian home market value.

The Canadian manufacturers of full fashioned hosiery depend almost entirely upon the export business and this business is being increasingly jeopardized by the very high valuation placed on needles for the reason that needles are regarded by the manufacturer not as a part of the machine but as a commodity which is in the manufacture of full fashioned hosiery and enters into the cost of hosiery produced equally with the silk from which the hosiery is made.

The needles which we have sold for Messrs. Muller & Franks are used on German built machines and the Canadian manufacturers we have spoken to tell us that German made needles have a decided advantage over other needles for German built machines.

About 60% of all full fashioned hosiery machines operated in Canada are built in Germany.

As further proof of our honesty in this matter we refer to our correspondence of July 1937, file #193943 and again March 1938 and with the exception of the information given to our representative Mr. Barker we are still without any direct ruling in this matter.

Had we intended to get an illegal financial advantage we certainly would not have taken the matter up with the department first.

We would appreciate your going into this matter fully and if at all possible return us at least the penalty and thereby clear our name from any suggestion of defrauding or intending to defraud the Canadian department of national revenues.

Yours very truly,

  
E. O. RABE & CO.