

IN THE MATTER OF

FELDER BROTHERS, INC., ABRAHAM FELDER, DAVID
FELDER AND LOUIS FELDER

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4555. Complaint, Aug. 5, 1941—Decision, Mar. 12, 1942

Where a corporation, and its three officers, who formulated and directed its policies and practices, engaged in the manufacture and interstate sale and distribution of leather goods and novelties—

Sold and distributed, prior to April 2, 1940, certain of their billfolds labeled "Genuine Leather Composition Barkhyde," and prior to February 15, 1941, certain of such products which they represented as being made of genuine leather;

Notwithstanding the fact their said products were manufactured largely of a nonleather material with which some leather fibers had been combined, which did not have the qualities of leather, and was not made from the hide of an animal;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that such labels and representations were true, and of inducing it to purchase substantial quantities of such billfolds as a result of such belief:

Held. That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. John W. Addison*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. Leon Savage, of New York City, for respondents.

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 Felder Bros., Inc., a corporation, Abraham Felder, David Felder, and Louis Felder, individually and officers of said 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, Felder Bros., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 583-587 Broadway, New York, N. Y.

Respondent, Abraham Felder, is an individual and is president of the corporate respondent, with his office and principal place of business located at 583-587 Broadway, New York, N. Y.

Respondent, David Felder, is an individual and is secretary of the corporate respondent, with his office and principal place of business located at 583-587 Broadway, New York, N. Y.

Respondent, Louis Felder, is an individual and is vice president and treasurer of the corporate respondent, with his office and principal place of business located at 583-587 Broadway, New York, N. Y.

The individual respondents formulate, control, and direct the policies, practices and methods of the corporate respondent.

PAR. 2. Respondents are now, and for more than two years last past have been, engaged in the business of manufacturing and selling leather and imitation leather goods and novelties, including billfolds. Respondents cause their said products, when sold by them, to be transported from their aforesaid place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said leather and imitation leather goods and novelties, including billfolds, in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their said billfolds, the respondents have represented, and are now representing, that certain of the billfolds manufactured, sold and distributed by them are of genuine leather composition designated "Barkhyde," such representations having been made and now being made by means of labels, tags and typed impressions stamped or attached to said billfolds, as follows:

Label:

	Genuine Leather Composition	
	Barkhyde	
<u>Fine,</u>	Made Exclusively for	<u>Quality</u>
	Felder Bros., Inc.,	
	New York, N. Y.	

Impression on billfolds:

Genuine Leather

PAR. 4. Through the use of the statements and representations hereinabove set forth, respondents have represented and now represent, directly or by implication, that their said billfolds are manufactured wholly from genuine leather, the hide of an animal.

Findings

34 F. T. C.

PAR. 5. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact respondents' said billfolds labeled "Genuine Leather Composition Barkhyde" and bearing a legend stamped thereon reading, "Genuine Leather," are manufactured largely of a paper material with which some leather fibers have been combined. Said products are not made of genuine leather and do not have the qualities or characteristics of leather, and are not made from the hide of any animal.

PAR. 6. The use by the respondents of the foregoing false and misleading advertising, disseminated as aforesaid, has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false advertisements are true, and to induce the purchasing public to purchase substantial quantities of respondents' products as a result of such belief.

PAR. 7. The aforesaid acts and practices of respondents as herein alleged are all to the injury and prejudice of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on August 5, 1941, issued and thereafter served its complaint in this proceeding upon the respondents Felder Brothers, Inc., a corporation, Abraham Felder, David Felder, and Louis Felder, individually and as officers of said corporation, Felder Bros., Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On September 15, 1941, the respondents filed an answer to this proceeding, and on December 15, 1941, at a hearing duly scheduled and held in Brooklyn, New York, it was agreed by and between counsel for the respondents and counsel for the Commission that, subject to the approval of the Commission, a stipulation as to the facts read into the record may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, and that the Commission may proceed upon such statement of facts to make its findings as to the facts (including inferences which it may draw from the said stipulated facts) and its conclusion based thereon and issue its order disposing of this proceeding without the presentation of argument or the filing of briefs. The respondents expressly waived the filing of the trial examiner's report on the evidence. Thereafter, this proceeding came on for final

hearing before the Commission on said complaint, answer and stipulation, said stipulation having been approved and accepted, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Felder Bros., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 583-587 Broadway, New York, N. Y.

Respondent, Abraham Felder, is an individual and is president of the corporate respondent, with his office and principal place of business located at 583-587 Broadway, New York, N. Y.

Respondent, David Felder, is an individual and is secretary of the corporate respondent, with his office and principal place of business located at 583-587 Broadway, New York, N. Y.

Respondent, Louis Felder, is an individual and is vice president and treasurer of the corporate respondent, with his office and principal place of business located at 583-587 Broadway, New York, N. Y.

The individual respondents formulate, control and direct the policies, practices and methods of the corporate respondent.

PAR. 2. Respondents are now, and for more than 2 years last past have been, engaged in the business of manufacturing, and selling leather and imitation leather goods and novelties, including billfolds. Respondents cause their said products when sold by them, to be transported from their aforesaid place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said leather and imitation leather goods and novelties, including billfolds, in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of their said products the respondents, prior to April 2, 1940, sold and distributed certain billfolds bearing the label "Genuine Leather Composition Barkhyde." Prior to February 15, 1941, respondents manufactured, sold and distributed certain billfolds and represented them as being made of genuine leather.

PAR. 4. The Commission finds that through the use of the above described labels and representations, respondents have represented

Order

34 F. T. C.

that their said billfolds are manufactured wholly from genuine leather, the hide of an animal. Such labels and representations were misleading and deceptive. In truth and in fact, none of said billfolds were manufactured wholly of genuine leather, but were manufactured largely of a nonleather material with which some leather fibers had been combined. Said nonleather material did not have the qualities and characteristics of leather and was not made from the hide of an animal.

PAR. 5. The use by the respondents of the foregoing misleading and deceptive labels and representations had the tendency and capacity to, and did, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such labels and representations were true and induced the purchasing public to purchase substantial quantities of respondents' products as a result of such belief.

CONCLUSION

The aforesaid acts and practices of respondents as herein found are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon complaint of the Commission, the answer of the respondents and a stipulation as to the facts entered into by counsel for respondents herein and counsel for the Commission which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that the said respondents have violated the provisions of the said Federal Trade Commission Act.

It is ordered, That the respondents, Felder Bros., Inc., a corporation, its officers, representatives, agents and employees and Abraham Felder, David Felder, and Louis Felder, as individuals, and as officers of Felder Bros., Inc., their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of leather goods, imitation leather goods, novelties and other similar products in com-

merce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any manner that products which are not manufactured wholly from the hide of an animal are leather or genuine leather.

2. Using the words or legends "Genuine Leather Composition Barkhyde," "Composition Barkhyde" or the words "Barkhyde" or "leather," or any other word or words whose spelling or written appearance simulates or suggests the word "hide" or "leather" as descriptive of the composition of any products which are not made of leather, the hide of an animal.

3. Using the words "leather" or "hide" or any simulation thereof, in connection with or as descriptive of their products, made partly of leather and partly of other materials which simulate leather, unless that part which is leather and that part which simulates leather are clearly distinguished.

It is further ordered, That the respondents shall, within 60 days after the 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.

IN THE MATTER OF
INGENUITIES CORPORATION OF AMERICA, GOLDBERG,
SQUIRE, LESSER AND COHEN, INC., AND T. P.
McCUTCHEON AND BROTHER, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4593. Complaint, Sept. 22, 1941—Decision, Mar. 13, 1942

Where a corporation, engaged in licensing a patent for the construction of neckties and the use, in connection therewith, of the registered trade-mark "Silkallo" (also licensed in combinations such as, particularly, "Duo-Silk-Allo"), which (1) paid an agreed percentage of licensees' cost of advertising the ties and furnished them with counter-cards and labels, on all of which it caused to be displayed the phrase "Duo-Silk-Allo," (2) designated approved firms for embossing said trade-marks on ties, and (3) charged royalties for neckties made and embossed under its licenses—

- (a) Represented that the neckties involved were silk through use of phrase "Duo-Silk-Allo" and other similar phrases; and failed to make it a condition precedent to the issuance of a license that licensee agree to use such phrases only on and in connection with products made entirely from silk, and to determine whether ties were entirely thus made, and to revoke licenses of those selling, shipping, labeling, embossing or advertising such products not thus made; and

Where two of its corporate licensees—

- (b) Embossed, or caused to be embossed, with words "Duo-Silk-Allo" and sold, thus embossed, rayon and rayon-and-silk ties, with woolen interlining; and
(c) Failed, in case of one of said licensees, to disclose rayon content of its products, and in other so to do except through placing on ties involved detachable paper labels reading "Silk and Rayon," and to designate each constituent fiber of such ties in order of its predominance by weight, beginning with the largest single one;

The facts being that many of the ties concerned, including those sold by other of its said licensees and similarly advertised, labeled, embossed and sold, were, except for woolen interlining, composed entirely or predominantly of rayon which, when made to simulate silk, is practically indistinguishable by the purchasing public from the genuine and long preferred product of the cocoon of the silkworm; and

Where said corporate licensor—

- (d) Placed in the hands of its said two corporate licensees aforesaid methods of misrepresenting their respective ties, and participated in the misrepresentation thereof; and

Where said licensor and its licensees—

- (e) Failed to disclose and to cause to be disclosed the fact that said products were composed in whole or in part of rayon, except as above set forth;

With tendency and capacity to mislead purchasers and prospective purchasers of said neckties into the mistaken belief that such representations were true