

IN THE MATTER OF
PRESIDENT MANUFACTURING COMPANY, INC., ET AL.

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

Docket C-104. Complaint, Mar. 28, 1962—Decision, Mar. 28, 1962

Consent order requiring Providence, R.I., distributors of men's and women's costume jewelry to jobbers and retailers, to cease misrepresenting their prod-

Complaint

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ucts by such practices as attaching to them tickets bearing excessive prices, represented thereby as the usual retail prices; affixing stickers or labels reading "24 Karat gold plated" to products having only an electrolytic application of gold; and affixing stickers to boxes of imitation pearl necklace and earring sets which stated they were made of "genuine fresh water pearls".

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 President Manufacturing Company, Inc., a corporation, and Joslin Oken, William R. LeBlanc, William J. LeBlanc and Henry Oken, individually and as 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 President Manufacturing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its principal office and place of business located at 43 Stukely Street, Providence, R.I.

Respondents Joslin Oken, William R. LeBlanc, William J. LeBlanc and Henry Oken are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of men's and ladies' costume jewelry to distributors, jobbers and retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Rhode Island to purchasers thereof located in various other states of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices in connection therewith, and misrepresenting the material of which their products are made or composed, by the following methods and means:

(a) By attaching, or causing to be attached, tickets to their said products upon which a certain amount is printed, thereby representing, directly or by implication, that said amount is the usual and regular retail price of said products. In truth and in fact, said amount is fictitious and in excess of the usual and regular retail price of said products in some of the trade areas where the representations are made.

(b) By affixing stickers, or labels to certain of their products containing statements thereon that such products are "24 Karat gold plated." In truth and in fact, said products are not 24 carat gold plated. The gold deposited thereon is not a substantial surface plating of gold applied by mechanical process but is an electrolytic application.

(c) By affixing stickers or labels to the boxes or containers with statements thereon that certain necklaces and earring sets are made of "genuine fresh water pearls." In truth and in fact, said necklace and earring sets are not made of fresh water pearls but are imitations.

PAR. 5. Respondents, on their labeling, use the word "guaranteed", thereby representing that said products are guaranteed in every respect. Said statement and representation was false, misleading and deceptive. In truth and in fact, the guarantee is limited and the terms, conditions and the extent to which said guarantee applies and the manner in which the guarantor will perform thereunder are not disclosed.

PAR. 6. By the aforesaid practices, respondents place in the hands of dealers and others the means and instrumentalities by and through which they may mislead the public as to the quality and usual and regular retail prices of said products.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of jewelry of the same general kind and nature as that sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

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

unfair and deceptive acts and practices in commerce, in violation of Section 5(a)(1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, President Manufacturing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located at 43 Stukley Street in the city of Providence, State of Rhode Island.

Respondents Joslin Oken, William R. LeBlanc, William J. LeBlanc and Henry Oken are officers of said corporation and their address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That the respondents President Manufacturing Company, Inc., a corporation, and its officers, and respondents Joslin Oken, William R. LeBlanc, William J. LeBlanc and Henry Oken, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of jewelry, or any other products, in commerce, as "com-

merce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly :

1. Representing, by preticketing or in any other manner, that any amount is the usual and regular retail price of merchandise when such amount is in excess of the price at which said merchandise is usually and regularly sold at retail in the trade area or areas where the representations are made.

2. Using the term "gold-plated", or any other word or words of similar import or meaning, to designate, describe or refer to an article which does not have a surface plating of gold or gold alloy applied by a mechanical process, provided, however, that any product, or part thereof, on which a substantial coating of gold or gold alloy has been affixed by an electrolytic process may be marked or described as gold electroplate or gold electroplated.

3. Using the word "pearls" or any other word or words of similar import or meaning to describe imitation pearls; *provided however*, that the foregoing shall not be construed to prohibit the use of the word "pearls" to describe the appearance of said imitation pearls if, whenever used, the word "pearls" is immediately preceded, in equally conspicuous type, by the word "imitation" or the word "simulated", or other word of similar import or meaning, so as to clearly indicate that said imitation pearls are not genuine pearls but imitations thereof.

4. Representing in any manner that imitation pearls are genuine pearls.

5. Placing in the hands of dealers and others a means and instrumentality by and through which they may misrepresent the usual and customary retail price of their merchandise, the gold content of their merchandise or the character and quality of the stones in their jewelry.

6. Representing that any merchandise sold or offered for sale is guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

It is further ordered, That the respondents herein 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 this order.

Complaint

60 F.T.C.

IN THE MATTER OF

JOHN FLYNN & SONS, INC., ET AL.

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

Docket C-105. Complaint, Mar. 28, 1962—Decision, Mar. 28, 1962

Consent order requiring Salem, Mass., processors of leathers for manufacture into ladies' shoes and other articles, to cease representing falsely that their leathers were produced from deer and elk hides by such practices as using in advertisements in trade publications and on invoices and hangtags distributed to purchasers the terms "DEERELK by Flynnntan" and "Flynnntan GluvElk".

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 John Flynn & Sons, Inc., a corporation, and Patrick H. Flynn and Michael F. Flynn, individually and as officers of John Flynn & Sons, Inc., 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 as follows:

PARAGRAPH 1. Respondent John Flynn & Sons, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 80 Burton Street, Salem, Mass. Individual respondents Patrick H. Flynn and Michael F. Flynn are officers of John Flynn & Sons, Inc., and their address is the same as that of said corporate respondent. The individual respondents, acting in cooperation with each other, formulate, direct and control all of the policies and acts of said corporation.

PAR. 2. Respondent John Flynn & Sons, Inc., is now, and has been for more than two years last past, engaged in processing, advertising, offering for sale, selling and distributing domestic leathers to be manufactured into ladies' shoes and other articles for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, said domestic leathers, when sold, to be shipped from their place of business in the State of Massachusetts to the purchasers thereof located in other States of the United States and maintain, and at all times mentioned