

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

herein have maintained, a substantial course of trade in said domestic leathers in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business done by respondents in said domestic leathers in commerce is now, and has been, substantial.

PAR. 4. In the course and conduct of their business and for the purpose of inducing the purchase of their leathers, the respondents have placed advertisements in trade publications, and statements on invoices and on hangtags distributed to purchasers of said leathers. Among and typical of the false and misleading representations used by respondents are the following:

DEERELK by Flynntan

Flynntan GluvElk

PAR. 5. Through the use of the foregoing statements and representations and others of similar import and meaning not specifically set out herein, respondents have represented, directly or indirectly, that their leathers are produced from deerhides and elkhides.

PAR. 6. In truth and in fact, the said "DEERELK" and "GluvElk" leathers and leather products are made from leather materials other than the hides of deer and elk.

PAR. 7. Respondents by means of the aforesaid acts and practices have furnished to others the means and instrumentalities of deceiving the public as to the composition of said leather products.

PAR. 8. In the course and conduct of their business, respondents are in substantial competition in commerce with corporations, firms and individuals engaged in the sale of deer and elk leathers.

PAR. 9. The aforesaid acts and practices of the respondents have the capacity and tendency to confuse the public as to the composition of their leathers and to mislead the public into the erroneous and mistaken belief that the said leathers are deer and elk leathers and into the purchase thereof by reason of such erroneous and mistaken belief.

PAR. 10. 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 and unfair methods of competition, in commerce, within the intent and meaning 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

Decision and Order

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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 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, in the city of Salem, Commonwealth of Massachusetts.

Respondents Patrick H. Flynn and Michael F. Flynn 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 respondents, John Flynn & Sons, Inc., a corporation, and its officers, and Patrick H. Flynn and Michael F. Flynn, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the terms "Deerelk" or "GluveElk" or the words "deer" or "elk", or any colorable simulation or any other representation thereof, to designate, describe or refer to a product not composed of those respective hides; provided, however, that in the case of a leather or other product containing leather which has been processed to simulate or imitate the appearance of deer leather or elk leather, the

words "deer" or "elk" may be used to describe truthfully the simulated appearance of the product as, for example, "Simulated Elk Grain," when immediately accompanied by a clear and conspicuous disclosure of the kind of leather of which the product is made.

2. Misrepresenting in any manner the composition of any of their products.

3. Furnishing to others any means or instrumentalities by or through which the public may be misled with respect to any of the matters prohibited under paragraphs 1 and 2 hereof.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the