FILED
2026 Nov-17 PM 12:28
U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

FEDERAL TRADE COMMISSION, Plaintiff, v. ELK RIVER, INC., a corporation, Defendant.	Case No. 5:26-cv-02278-HNJ **STIPULATED ORDER FOR PERMANENT INJUNCTION, MONETARY JUDGMENT, AND OTHER RELIEF**

Plaintiff the Federal Trade Commission ("Commission"), filed its Complaint for Permanent Injunction, Monetary Judgment, and Other Relief ("Complaint"), for a permanent injunction, monetary relief, and other relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) & 57b. Defendant has waived service of the summons and the Complaint. The Commission and Defendant stipulate to the entry of this Stipulated Order for Permanent Injunction, Monetary Judgment, and Other Relief ("Order") to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.

2. The Complaint alleges that Defendant participated in deceptive and unfair acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a); Section 45a, 15 U.S.C. § 45a; and the Made in USA Labeling Rule, 16 C.F.R. Part 323, by making unqualified, express U.S.-origin labeling and advertising claims about certain safety harnesses.

3. Defendant neither admits nor denies any of the allegations in the Complaint,

except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish jurisdiction.

4. Defendant waives any claim that it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear its own costs and attorney fees.

5. Defendant and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

A. **"Clear(ly) and Conspicuous(ly)"** means that a required disclosure is easily noticeable (i.e., difficult to miss) and easily understandable by reasonable consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for reasonable consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet, mobile application, or software, the disclosure must be unavoidable.
5. On a product label, the disclosure must be presented on the principal display panel.
6. The disclosure must use diction and syntax understandable to reasonable consumers and must appear in each language in which the representation that requires the disclosure appears.
7. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
8. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
9. When the representation or sales practice targets a specific audience, such as children, older adults, or the terminally ill, "reasonable consumers" includes members of that group.

B. **"Defendant"** means Elk River, Inc. and its successors and assigns.

C. **"Made in the United States"** means any representation, express or implied, that a product or service, or a specified component thereof, is of U.S.-origin, including, but not limited to, a representation that such product or service is "made," "manufactured," "built,"

"produced," or "crafted" in the United States or in America, or any other U.S.-origin claim.

ORDER

I. PROHIBITION AGAINST MISREPRESENTATIONS REGARDING U.S.-ORIGIN CLAIMS

IT IS ORDERED that Defendant, Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with advertising, promoting, or offering for sale or distribution any product or service, are permanently restrained and enjoined from representing or assisting others in representing, expressly or by implication, that a product or service is Made in the United States unless:

A. The final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; or

B. A Clear and Conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or

C. For a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product's principal assembly takes place in the United States, and United States assembly operations are substantial.

II. PROHIBITION AGAINST MISLEADING OR UNSUBSTANTIATED COUNTRY-OF-ORIGIN REPRESENTATIONS

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with

advertising, promoting, or offering for sale or distribution any product or service, are permanently restrained and enjoined from making any representation, expressly or by implication, regarding the country of origin of any product or service unless the representation is non-misleading, including that, at the time such representation is made, Defendant possesses and relies upon a reasonable basis for the representation.

III. JUDGMENT FOR MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of FOUR MILLION THREE HUNDRED SIXTY-SEVEN THOUSAND SIX HUNDRED FORTY DOLLARS AND SEVENTY-FOUR CENTS ($4,367,640.74) is entered in favor of the Commission against Defendant as monetary relief.

B. Defendant is ordered to pay to the Commission SEVENTY-TWO THOUSAND FIVE HUNDRED TWENTY-SEVEN DOLLARS AND FIFTY CENTS ($72,527.50), which, as Defendant stipulates, its undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission. Upon such payment, the remainder of the judgment is suspended, subject to the Subsections below.

C. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendant's sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely: the Financial Statement of Defendant Elk River, Inc., signed by Philip B. Clemmons, Jr., President and sole Director, on June 5, 2026, including the attachments and additional documents and information produced on June 26, 2026 and on July 22, 2026.

D. The suspension of the judgment will be lifted as to Defendant if, upon motion by the Commission, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

E. If the suspension of the judgment is lifted, the judgment becomes immediately due as to Defendant in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

IV. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendant relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

C. Defendant acknowledges that its Taxpayer Identification Number, which Defendant must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

D. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

E. The Commission may request any tax-related information, including amended tax returns and any other filings, that Defendant has the authority to release. Within 14 days of receipt of a written request from a representative of the Commission, Defendant must take all necessary steps (such as filing a completed IRS Form 4506 or 8821) to cause the Internal Revenue Service or other tax authority to provide the information directly to the Commission.

F. All money received by the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for consumer relief, such as redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after such redress is completed, the Commission may apply any remaining money for such related relief (including consumer information remedies) as it determines to be reasonably related to Defendant's practices alleged in the Complaint. Any money not used for relief is to be deposited to the U.S. Treasury. Defendant has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

V. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendant must provide sufficient customer information including sufficient identification of all resellers, to enable the Commission to efficiently administer consumer redress to purchasers of safety harnesses between May 8, 2023 and June 10, 2026. If a representative of the Commission requests in writing any information related to redress, Defendant must provide it, in the form prescribed by the Commission representative, within 14 days.

VI. NOTICE TO CUSTOMERS

IT IS FURTHER ORDERED that Defendant must notify customers and the Commission as follows:

A. Defendant must identify all customers who purchased any safety harnesses between August 1, 2021 and June 10, 2026 ("Affected Customers").

1. Such Affected Customers, and their contact information, must be identified to the extent such information is in Defendant's possession, custody, or control; and

2. Affected Customers include those identified at any time, including after Defendant's execution of the Order through the eligibility period, which runs for 1 year after the date the Order was entered.

B. Defendant must notify all identified Affected Customers by emailing each a notice in the form shown in Attachment A. The email containing the notice may contain a copy of this Order, but no other document or enclosures.

C. Defendant must notify all Affected Customers within 30 days after the date the Order was entered, and any Affected Customers identified thereafter within 30 days of their identification.

D. Defendant must report on its notification program under penalty of perjury:

1. Defendant must submit a report within 60 days of entry of this Order and at the conclusion of the program summarizing its compliance to date.

2. If a representative of the Commission requests any information regarding the program, including any of the underlying customer data, Defendant must submit it within 10 days of the request.

VII. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this Order:

A. Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for country-of-origin claims, and all agents and representatives who participate in country-of-origin claims; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Defendant delivered a copy of this Order, Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VIII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant make timely submissions to the Commission:

A. One year after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury. Defendant must:

1. identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant;

2. identify all of Defendant's businesses by all of their names, telephone

numbers, and physical, postal, email, and Internet addresses;

3. describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and any country-of-origin claims made in marketing;

4. describe in detail whether and how Defendant is in compliance with each Section of this Order; and

5. provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For 20 years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Any designated point of contact; or

2. The structure of Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all

submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Elk River, Inc., FTC File No. _____.

IX. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, Defendant, for any business that such Defendant is a majority owner or controls directly or indirectly, must create and retain the following records:

A. Accounting records showing the revenues from all products or services sold;

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. Records of all consumer complaints and refund requests concerning the subject matter of the Order, whether received directly or indirectly, such as through a third party, and any response;

D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

E. A copy of each unique advertisement, label, or other marketing material that includes any express or implied Made in the United States claim.

X. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission, Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including depositions by remote means), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with Defendant. Defendant must permit representatives of the Commission to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

XI. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this ___day of _____, 2026.

_____

UNITED STATES DISTRICT JUDGE

FOR PLAINTIFF: Federal Trade Commission

CHRISTOPHER MUFARRIGE
Director, Bureau of Consumer Protection

ANNIE CHIANG
Deputy Director, Bureau of Consumer Protection

Date: 11/16/2026

JAMES W. CLAYTON

Attorney
Federal Trade Commission
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FOR DEFENDANT: Elk River, Inc.

Date: 7/30/26

Barry I. Friedman
Metz Lewis Brodman Must O'Keefe
444 Liberty Avenue, Suite 2100
Pittsburgh, PA 15222
(412) 918-1110
BFriedman@metzlewis.com

Date: 7-29-2026

Philip B. Clemmons Jr.
President and sole Director
Elk River, Inc.
1202 26th Street SW
Cullman, AL 35055

Attachment A: Notice to Customers

The notification email must be in the following form, from an authorized Elk River, Inc. email address, and containing an Elk River, Inc. signature line with the sender's full contact information:

Subject: Settlement of FTC Deceptive Made in the USA Advertising and Labeling Case

Dear <Name of customer>:

Our records show that you bought a safety harness manufactured by Elk River, Inc. that we labeled or advertised as "Made in USA," "Made in the USA," "Made in U.S.A.," or "American-made." We're writing to tell you that the Federal Trade Commission, the nation's consumer protection agency, has sued us for deceptive and false labeling and advertising. According to the FTC, these claims about your harness were misleading.

To settle the FTC's lawsuit, we're notifying you that the harness you bought was not all or virtually all "Made in the USA." Our harnesses contain significant imported components, including imported D-rings.

If you have questions about this lawsuit, visit [get short URL]. For more information about "Made in USA" advertising and labeling, visit https://www.ftc.gov/business-guidance/advertising-marketing/made-in-usa or https://consumer.ftc.gov/features/made-usa.

Sincerely,

[signature]

[Elk River, Inc. signature block]