

IN THE MATTER OF
GEORGE GOLDBERG TRADING AS ARTGOLD LEATHER
GOODS MANUFACTURING COMPANY

DECISION IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE
COMMISSION ACT

Docket 6139. Complaint, Nov. 3, 1953—Decision, May 8, 1954

Where an individual engaged in the manufacture and competitive interstate sale and distribution of luggage, including certain handbags, the leather part of which appeared to be thicker than was the fact, due to the presence, not discernible from ordinary or usual inspection, of a cardboard or other backing of nonleather material—

Failed to disclose that the leather in said bags was so backed with cardboard or other nonleather material:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and of his competitors and constituted an unfair and deceptive act and practice in commerce and an unfair method of competition therein.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Charles S. Cox for the Commission.

Mr. Maurice B. Holsberg, of Boston, Mass., for respondent.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance," dated May 8, 1954, the initial decision in the instant matter of hearing examiner James A. Purcell, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 3, 1953, issued and subsequently served its complaint in this proceeding upon the respondent George Goldberg, an individual trading as Artgold Leather Goods Manufacturing Company, charging him with the use of unfair and deceptive acts and practices and unfair methods of competition, in commerce, in violation of the provisions of said Act. On March 25, 1954, respondent filed his answer, in which answer he admitted all of the material allegations as to the facts as set forth in said complaint and waived all intervening procedure and hearing as to the said facts.

Thereafter, the proceeding regularly came on for final consideration by the above-named Hearing Examiner, theretofore duly designated by the Commission, upon said complaint and answer thereto, proposed findings and conclusions not having been submitted on behalf of either of the parties; and said Hearing Examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent George Goldberg is an individual trading as Artgold Leather Goods Manufacturing Company with his office and principal place of business located at 10 Thatcher Street, Boston, Massachusetts.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the manufacture, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of luggage, including traveling bags, which are sold by him to retailers and others for resale to ultimate purchasers.

PAR. 3. Some of the bags sold by respondent, as aforesaid, have the appearance of being made entirely of leather except for metal parts and linings. Such appearance is deceptive and misleading to the public for the reason that the leather part of said bags is backed with cardboard or other nonleather material thus making them appear to be made of a thicker leather than is actually the fact. The presence of such backing is not discernible from ordinary or usual inspection and is not disclosed by respondent on his said bags or otherwise.

PAR. 4. Respondent, at all times mentioned herein, has been, and is now, in substantial competition with other individuals, partnerships, firms and corporations engaged in the manufacture, sale and shipment of luggage in commerce between and among the various States of the United States and the District of Columbia.

PAR. 5. The failure of respondent to disclose that the leather in his said bags is backed with other materials has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that his said bags are made entirely of leather, except necessary metal parts and linings, and into the purchase of substantial quantities of said bags because of such erroneous and mistaken belief. As a result thereof, trade in commerce has been unfairly diverted to respondent from his competitors. In consequence thereof, substantial injury has been and is being done to respondent's competitors in commerce.

Order

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Furthermore, respondent's said practice places in the hands of retailers and others a means and instrumentality by and through which the public may be misled as to the composition of his said product.¹

CONCLUSION

The aforesaid acts and practices, as herein found is all to the prejudice and injury of the public and of respondent's competitors and constitutes an unfair and deceptive act and practice and an unfair method of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That the respondent, George Goldberg, an individual, trading under the name of Artgold Leather Goods Manufacturing Company, or under any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of luggage in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly:

Offering for sale or selling traveling bags or other luggage having an outer covering of leather that is backed with cardboard or material other than leather, without affirmatively disclosing the use of such backing, on said products in such a manner that said disclosure cannot be readily hidden or removed.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist [as required by said declaratory decision and order of May 8, 1954].

¹ FTC Matter re: Samuel Brier, 24 FTC 905.

FTC Matter re: George Landon, et al., 24 FTC 931.

FTC Matter re: Louis Hoffman, 31 FTC 793.

FTC Matter re: Israel Zaveloff, 25 FTC 742.

Opinion

IN THE MATTER OF
FLORIDA CITRUS MUTUAL ET AL.

Docket 6074. Order and opinions, May 10, 1954

Before *Mr. J. Earl Cox* and *Mr. Everett F. Haycraft*, hearing examiners.

Mr. Fletcher G. Cohn and *Mr. Lewis F. Depro* for the Commission.

Mabry, Reaves, Carlton, Anderson, Fields & Ward and *Mr. Counts Johnson*, of Tampa, Fla., and *Mr. Robert E. Freer*, of Washington, D. C., for respondents.

Mr. A. Y. Milam, of Jacksonville, Fla., for Florida State Chamber of Commerce, intervenor.

Mr. William H. Dial, of Orlando, Fla., for Florida Bankers Ass'n, intervenor.

ORDER SUSTAINING APPEAL OF COUNSEL IN SUPPORT OF COMPLAINT,
REVERSING INITIAL DECISION, AND REMANDING CASE TO HEARING
EXAMINER

This matter coming on to be heard by the Commission upon an appeal, filed by counsel in support of the complaint, from the hearing examiner's initial decision dismissing the complaint herein without prejudice; and

The Commission having decided, for the reasons set forth in the written opinion which is being issued simultaneously herewith, that said initial decision was improvidently issued:

It is ordered, That the appeal of counsel in support of the complaint be, and it hereby is, sustained.

It is further ordered, That the hearing examiner's initial decision filed June 12, 1953, be, and it hereby is, vacated and set aside.

It is further ordered, That this case be, and it hereby is, remanded to the hearing examiner with instructions to proceed in accordance with the Commission's opinion.

Commissioner Howrey dissenting in part but concurring in the result, and Commissioner Mead not participating.

OPINION OF THE COMMISSION

MASON, Commissioner:

This matter is before the Commission on appeal by Government counsel from a hearing examiner's order dismissing the complaint.

The initial decision of the examiner granting the respondents' motion to dismiss prior to trial is reversed. The case is remanded for disposition in accord with this opinion.