

IN THE MATTER OF

DOFAN HANDBAG CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 8283. Complaint, Feb. 8, 1961—Decision, May 16, 1961*

Consent order requiring New York City distributors to cease stamping the words "Leather Lined" upon some of their handbags which were, in fact, only partially leather lined.

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 Dofan Handbag Co., Inc., a corporation, and Zoltan J. Grosz and Armand A. Grosz, 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 Dofan Handbag Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 33 East 33rd Street, in the City of New York, State of New York.

Respondents Zoltan J. Grosz and Armand A. Grosz are officers of Dofan Handbag Co., Inc. They formulate, direct and control the acts and practices of said corporation. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the advertising, offering for sale, sale and distribution of ladies' handbags to 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, said ladies' handbags when sold to be shipped from their place of business in the State of New York 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 handbags in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business done by respond-

ents in said handbags in commerce is now, and has been, substantial.

PAR. 4. In the course and conduct of their business, respondents have stamped or imprinted upon some of their handbags "Leather Lined". Said handbags are, when sold to retailers, displayed to the purchasing public with the words stamped or imprinted "Leather Lined" affixed to said handbags.

PAR. 5. There is a preference on the part of many members of the purchasing public for products such as ladies' handbags made of genuine leather or lined with genuine leather over products not composed wholly of leather or wholly leather lined.

PAR. 6. In truth and in fact the handbags stamped and imprinted "Leather Lined" by respondents are not completely leather lined but are only partially leather lined.

PAR. 7. Respondents by means of the aforesaid acts and practices and by failing to adequately disclose that said handbags are only partially leather lined, furnished means and instrumentalities to others whereby the public is confused or misled as to the actual composition of said handbags or the linings thereof.

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 genuine leather ladies' handbags and genuine wholly leather lined ladies' handbags.

PAR. 9. The aforesaid acts and practices of the respondents and their failure to adequately disclose the composition of their ladies' handbags have the capacity and tendency to confuse the public as to their composition and to mislead the public into the erroneous and mistaken belief that the linings of said handbags are wholly genuine leather, and into the purchase thereof by reason of such erroneous and mistaken belief. As a consequence thereof substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has thereby been done to competition in commerce.

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.

Mr. Morton Nesmith for the Commission.

Mr. Myron J. Kleban, of New York, N.Y., for respondents.

INITIAL DECISION BY HERMAN TOCKER, HEARING EXAMINER

The complaint in this proceeding, issued February 8, 1961, charged the respondents, Dofan Handbag Co., Inc., a New York corporation, located at 33 East 33rd Street, New York, New York, and Zoltan J. Grosz and Armand A. Grosz, individually and as officers of said corporation, and located at the same address as the corporate respondent, with violation of the provisions of the Federal Trade Commission Act, by misbranding ladies' handbags advertised, sold and distributed by them in commerce.

After the issuance of the complaint, respondents (with the advice of their attorney), and counsel supporting the complaint entered into an agreement, containing consent order to cease and desist, thus disposing of all the issues as to all parties to this proceeding.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the parties expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance therewith.

Respondents agreed further that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provide for an appropriate disposition of this proceeding, the same is hereby accepted and, upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, shall be filed; and, in consonance with the terms

thereof, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondents Dofan Handbag Co., Inc., a corporation, and its officers, and Zoltan J. Grosz and Armand A. Grosz, 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 in commerce, as "commerce" is defined in the Federal Trade Commission Act, of ladies' handbags, or other merchandise do forthwith cease and desist from representing directly or by implication:

1. That certain ladies' handbags or other merchandise are leather lined unless said articles are completely lined with genuine leather.
2. That certain ladies' handbags or other merchandise are leather lined by affixing stampings or labels thereto that they are leather lined unless such articles are completely lined with genuine leather.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 16th day of May 1961, become the decision of the Commission; and, accordingly:

It is ordered, That 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 the order to cease and desist.

Commissioner Elman not participating.