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10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,)
13) Civil No.
14 Plaintiff,) C-76-858-RHS
15) COMPLAINT
16 v.)
17) 15 U.S.C. §1
18) (Sherman Antitrust
19) Act)
20 FEDERATED DEPARTMENT STORES, INC.,)
21 d/b/a I. MAGNIN & CO.; and)
22 SAKS & COMPANY, d/b/a SAKS FIFTH)
23 AVENUE,) Filed:
24) April 28, 1976
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34 The United States of America, plaintiff, by its
35 attorneys, acting under the direction of the Attorney
36 General of the United States, brings this civil action
37 against the above-named defendants, and complains and
38 alleges as follows:

39 I

40 JURISDICTION AND VENUE

41 1. This complaint is filed under Section 4 of the
42 Act of Congress of July 2, 1890 (15 U.S.C. §4), as amended,
43 commonly known as the Sherman Act in order to prevent and
44 restrain the violation by the defendants, as hereinafter
45 alleged, of Section 1 of the Sherman Act (15 U.S.C. §1).

46 2. Each of the defendants is found and transacts
47 business within the Northern District of California.

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II

THE DEFENDANTS

3. Federated Department Stores, Inc. ("Federated") is hereby made a defendant herein. Federated is a corporation organized and existing under the laws of the State of Delaware. Its principal offices are located in Cincinnati, Ohio. During the period of time covered by this complaint, Federated has engaged in the retailing of women's clothing in Northern California under the trade name of "I. Magnin & Co." The principal offices of I. Magnin & Co. are located in San Francisco, California. During the period of time covered by this complaint, Federated has also commenced the retailing of women's clothing in Northern California under the trade name "Bullock's Northern California," with principal offices located in Palo Alto, California.

4. Saks & Company ("Saks") is hereby made a defendant herein. Saks is a corporation organized and existing under the laws of the State of New York, with its principal place of business in New York City. Saks is a wholly-owned subsidiary of Gimbel Brothers, Inc. During the period of time covered by this complaint, Saks has been engaged in the retailing of women's clothing in Northern California under the trade name "Saks Fifth Avenue."

III

CO-CONSPIRATORS

5. Various other persons, not made defendants herein, participated as co-conspirators in the violation hereinafter charged, and performed acts and made statements in furtherance thereof.

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IV

TRADE AND COMMERCE

6. The defendants are among the largest retailers specializing in the sale of women's clothing in Northern California. They have an image recognized in the women's clothing industry, and by the consumer, of selling fashionable women's clothing of quality fabrics and favored styling. In 1973, they accounted for approximately \$35 million in retail sales of women's clothing in Northern California.

7. In the retailing of women's clothing, the difference between the cost price of an item and its retail price is known as the "markup." Retailers maintain "markup lists" which show the retail price to be charged for items purchased at a given cost level. These markup lists are used by retailers to price items sold to the consumer.

8. During the period of time covered by this complaint, substantial quantities of women's clothing sold by the defendants in Northern California have been manufactured outside the State of California and have been shipped in the regular flow of interstate commerce into the State of California.

V

VIOLATION ALLEGED

9. Beginning at least as early as 1963, the exact date being unknown to the plaintiff, and continuing until at least April, 1974, the defendants and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce, in violation of Section 1 of the Sherman Act, as amended (15 U.S.C. §1), and the aforesaid combination and conspiracy

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1 may be continued or renewed unless the relief hereinafter
2 prayed for is granted.

3 10. The aforesaid combination and conspiracy has
4 consisted of a continuing agreement, understanding, and
5 concert of action among defendants and co-conspirators
6 to raise, fix, maintain and stabilize prices charged by
7 defendants for the sale of women's clothing in Northern
8 California.

9 11. In formulating and effectuating the aforesaid
10 combination and conspiracy, the defendants and co-conspirators
11 did those things which the combined and conspired to do,
12 including, among other things, the following:

- 13 (a) met and engaged in telephone conversations
14 to discuss prospective markups and retail
15 prices for the sale of women's clothing
16 to customers of defendants;
- 17 (b) exchanged markup charts used by defendants
18 in establishing the retail price of women's
19 clothing sold to customers of defendants;
- 20 (c) established agreed-upon markups and retail
21 prices for the sale of women's clothing
22 to customers of defendants; and
- 23 (d) adhered to agreed-upon markups and retail
24 prices for the sale of women's clothing
25 to customers of defendants.

26 VI

27 EFFECTS

28 12. The aforesaid combination and conspiracy has
29 had the following effects, among others:

- 30 (a) prices of women's clothing have been
31 raised, fixed, stabilized and maintained
32 at artificial, non-competitive levels;

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(b) customers of the defendants have been
deprived of free and open competition
in the sale of women's clothing; and,
(c) competition among the defendants in the
sale of women's clothing has been restrained.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the
defendants and co-conspirators have engaged in an unlawful
combination and conspiracy in unreasonable restraint of
aforesaid interstate trade and commerce in violation of
Section 1 of the Sherman Act.

2. That the defendants, their officers, directors,
agents, employees and successors and all other persons
acting or claiming to act on their behalf be enjoined
and restrained from, in any manner, directly or indirectly,
continuing, maintaining, or renewing the combination and
conspiracy hereinbefore alleged, and from engaging in any
other combination, conspiracy, contract, agreement, under-
standing, or concert of action having a similar purpose
or effect, and from adopting or following any practice,
plan, program, or device, having a similar purpose or effect.

3. That the plaintiff have such other and further
relief as the nature of the case may require and the
Court may deem just and proper.

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4. That the plaintiff recover the costs of this
suit.

Dated:

Thomas E. Kauper
THOMAS E. KAUPER
Assistant Attorney General

DAVID W. RAUB

Baddia J. Rashid
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