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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)
12)
13 Plaintiff,)
14 v.) Civil No. 76-858 RHS
15 FEDERATED DEPARTMENT STORES, INC.,) Filed: November 3, 1977
16 d/b/a I. MAGNIN & CO.; and) Entered: March 10, 1978
17 SAKS & COMPANY, d/b/a SAKS FIFTH)
18 AVENUE,)
19 Defendants.)

20 STIPULATION

21 It is stipulated by and between the undersigned parties,
22 plaintiff United States of America, and defendant Federated
23 Department Stores, Inc., doing business as I. Magnin & Co.,
24 by their respective attorneys, that:

25 1. The parties consent that a final judgment in the
26 form hereto attached may be filed and entered by the Court
27 upon the motion of either party or upon the Court's own
28 motion, at any time after compliance with the requirements
29 of the Antitrust Procedures and Penalties Act [15 U.S.C.
30 §16] and without further notice to any party or other
31 proceedings, provided that plaintiff has not withdrawn its
32 consent which it may do at any time before the entry of the
proposed final judgment by serving notice thereof on

1 defendant and by filing that notice with the Court.

2 2. In the event plaintiff withdraws its consent or if
3 the proposed Final Judgment is not entered pursuant to this
4 Stipulation, this Stipulation shall be of no effect whatever
5 and the making of this Stipulation shall be without prejudice
6 to plaintiff and defendant in this or any other proceeding.

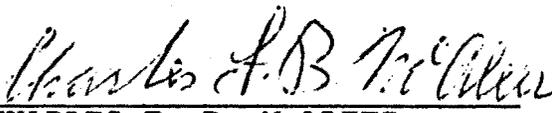
7 Dated: November 3, 1977

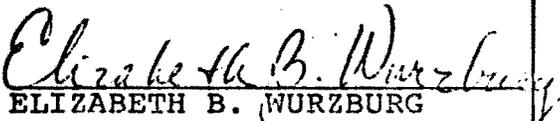
8 
9 JOHN H. SHENEFIELD
10 Assistant Attorney General

11 /s/ David W. Raub
12 DAVID W. RAUB

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14 WILLIAM E. SWOPE

15 /s/ Glenda R. Jermanovich
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27 FOR THE DEFENDANT

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32 By /s/ Jerome I. Chapman
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34 Attorney for Defendant

1 UNITED STATES DISTRICT COURT ORIGINAL
2 NORTHERN DISTRICT OF CALIFORNIA FILED
3

4 UNITED STATES OF AMERICA,)
5 Plaintiff,)
6 v.)
7 FEDERATED DEPARTMENT STORES, INC.,)
8 d/b/a I. MAGNIN & CO.; and)
9 SAKS & COMPANY, d/b/a SAKS FIFTH)
10 AVENUE,)
11 Defendants.)

CLERK, U. S. DIST. COURT
SAN FRANCISCO
Civil No. 76-858 RHS
Filed: 11/3/77
Entered: 3/10/78

12 FINAL JUDGMENT

13 Plaintiff, United States of America, having filed its
14 complaint herein on April 28, 1976, and Defendant Federated
15 Department Stores, Inc., doing business as I. Magnin & Co.,
16 having appeared by its attorneys, and the Plaintiff and the
17 Defendant, by their respective attorneys, having consented to
18 the entry of this Final Judgment without trial or adjudi-
19 cation of any issue of fact or law herein and without this
20 Final Judgment constituting evidence or an admission by
21 any party with respect to any such issue;

22 NOW, THEREFORE, before the taking of any testimony and
23 upon the consent of the parties hereto, it is hereby,

24 ORDERED, ADJUDGED AND DECREED as follows:

25 I

26 This Court has jurisdiction of the subject matter herein
27 and of the parties hereto. The complaint states a claim
28 upon which relief may be granted against the Defendant
29 under Section I of the Sherman Act (15 U.S.C. §1).

30 II

31 As used in this Final Judgment:

32 (A) "Person" means any individual, corporation,

1 partnership, firm, association or other business
2 or legal entity.

3 (B) "Women's clothing" means dresses, suits, coats,
4 separates, sportswear, and other items of outer-
5 wear intended to be worn by women, but excluding
6 shoes, furs, millinery, and accessories.

7 (C) "Markup" means the difference between the cost
8 price of an item and its retail price.

9 (D) "Operation" means a division or component portion
10 of Federated Department Stores, Inc. which sells
11 women's clothing at retail.

12 III

13 The provisions of this Final Judgment shall apply
14 solely:

15 (A) To each of the following operations of Defendant:

16 (1) The I. Magnin & Co. division of the Defend-
17 ant; or

18 (2) Any operation of the Defendant in any form
19 (including but not limited to subsidiary,
20 branch or division) which shall at any time
21 succeed to the business of the I. Magnin
22 & Co. division, whether by transfer of stock
23 or assets, reorganization or otherwise;
24 and

25 (3) Any operation of the Defendant which engages
26 in the business of selling women's clothing
27 under a trade name incorporating the words
28 "I. Magnin" or any variation thereof.

29 (B) To each officer, director, agent, employee,
30 subsidiary, successor or assign of each operation
31 specified in Part III (A) above;

1 (C) To all other persons in active concert or parti-
2 cipation with any of those specified in Part III
3 (A) or III (B) above who receive actual notice
4 of this Final Judgment by personal service or
5 otherwise.

6 IV

7 The Defendant shall require, as a condition of the
8 sale or other disposition of all, or substantially all, of
9 the assets used in any operation specified in Part III (A)
10 above, that the acquiring party agree to be bound by the
11 provisions of this Final Judgment. The acquiring party
12 shall file with the Court, and serve upon the Plaintiff,
13 its consent to be bound by this Final Judgment.

14 V

15 (A) The Defendant is enjoined and restrained from
16 entering into, adhering to, maintaining, fur-
17 thering or enforcing, directly or indirectly,
18 any agreement, understanding, plan or program
19 with any other person to raise, fix, stabilize
20 or maintain prices, markups or other terms or
21 conditions at which women's clothing is offered
22 for sale at retail.

23 (B) The Defendant is enjoined and restrained from
24 acting, either unilaterally or in concert with
25 any other person, directly or indirectly, to
26 induce, coerce or attempt to influence any other
27 retailer to adhere to any manufacturer's
28 suggested or other retail prices or markups for
29 any women's clothing offered for sale at retail.

30 VI

31 (A) The Defendant is enjoined and restrained from
32

1 communicating directly or indirectly to any other
2 retailer of women's clothing information concern-
3 ing:

4 (1) The actual or proposed prices, price changes,
5 markups, or markup changes of any women's
6 clothing Defendant offers or proposes to
7 offer for sale at retail;

8 (2) The actual or proposed prices, price changes,
9 markups or markup changes of any women's
10 clothing offered or proposed to be offered
11 for sale at retail by any person other than
12 the Defendant;

13 (3) Any third person's refusal to adhere to
14 or intention not to adhere to any manufac-
15 turer's suggested or other retail prices
16 or markups for any women's clothing offered
17 or proposed to be offered for sale at
18 retail;

19 (4) Any third person's refusal to change or
20 intention not to change its prices or markups
21 for any women's clothing offered or proposed
22 to be offered for sale at retail.

23 (B) The Defendant is enjoined and restrained from:

24 (1) Soliciting or accepting from any person
25 any list of actual or proposed prices or
26 markups pertaining to any women's clothing
27 where the Defendant knows or has reason
28 to believe that the list was promulgated
29 by any retailer other than the Defendant;

30 (2) Offering to any person any list of actual
31 or proposed prices or markups pertaining
32 to any women's clothing for the purpose

1 of dissemination to any retailer other than
2 Defendant.

3 (C) Any written list of actual or proposed prices
4 or markups pertaining to women's clothing which
5 is promulgated and offered to any manufacturer
6 of women's clothing by any operation specified
7 in Part III (A) above shall contain the following
8 legend at the top of each page thereof: "Confi-
9 dential -- Not for distribution to any retailer
10 outside of Federated Department Stores, Inc."

11 (D) Nothing in this Final Judgment shall apply to
12 any communications from the Defendant to the
13 general public concerning prices or markups,
14 nor, except as provided in Part VII below, to
15 any communications or transactions concerning
16 prices, markups or any other subject solely
17 between or among any employees of Federated
18 Department Stores, Inc.

19 VII

20 The Defendant is ordered and directed to:

21 (A) Distribute a copy of this Final Judgment to each
22 of its Directors and, for a period of ten (10)
23 years from the date of entry of this Final Judg-
24 ment, take affirmative steps (including, but
25 not limited to, distribution of this Final Judg-
26 ment, written directives setting forth corporate
27 compliance policies and meetings to review the
28 terms and obligations of this Judgment) to advise
29 each of its officers, merchandise managers,
30 buyers, assistant buyers, store managers and
31 other employees having managerial or supervisory
32

1 responsibility for the purchasing or pricing
2 of women's clothing offered for sale at retail
3 (i) by any operation specified in Part III (A)
4 above and (ii) by the Bullock's Northern
5 California division of the Defendant or any
6 operation that succeeds to the business thereof,
7 of their obligations under this Final Judgment
8 and of the criminal penalties for engaging in
9 conduct prohibited in Parts V and VI of this
10 Final Judgment.

11 (B) Within sixty (60) days after receipt from the
12 attorney for the Plaintiff, following the entry
13 of this Final Judgment, of a written listing
14 of the names and mailing addresses of persons
15 offering women's clothing for sale at retail
16 in Northern California, distribute a conformed
17 copy of this Final Judgment to each person so
18 listed.

19 (C) For a period of ten (10) years from the date
20 of entry of this Final Judgment, on each anniversary
21 date thereof, file with this Court and mail to
22 the Plaintiff an affidavit of the person respon-
23 sible for the performance of the Defendant's
24 obligations under Subsection (A) of this Part
25 VII setting forth all steps that Defendant has
26 taken during the preceding year to discharge
27 such obligations.

28 (D) Within ninety (90) days after receipt of the
29 written listing provided for in Subsection (B)
30 of this Part VII, file with this Court and mail
31 to the Plaintiff an affidavit setting forth the
32

manner of compliance with that Subsection.

VIII

(A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, the Defendant shall permit duly authorized representatives of the Department of Justice, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendant at its principal office, subject to any legally recognized privilege:

(1) Access, during the regular business hours of Defendant, who may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the Defendant which relate to any matters contained in this Final Judgment;

(2) Subject to the reasonable convenience of the Defendant, and without restraint or interference from it, to interview any officers or employees of Defendant, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, the Defendant shall submit such reports in writing, under oath if so requested, with respect to any matters contained in this Final Judgment as may from time to time be

1 requested in writing by the Attorney General or
2 the Assistant Attorney General in charge of the
3 Antitrust Division.

4 (C) No information obtained by the means provided
5 in this Part VIII shall be divulged by a
6 representative of the Department of Justice to
7 any person other than a duly authorized
8 representative of the Executive Branch of the
9 United States, except in the course of legal
10 proceedings to which the United States is a party,
11 or for the purpose of securing compliance with
12 this Final Judgment, or as otherwise required
13 by law.

14 (D) If at any time information or documents are
15 furnished by Defendant to Plaintiff, and
16 Defendant represents and identifies in writing
17 the material in any such information or documents
18 of a type described in Rule 26(c)(7) of the
19 Federal Rules of Civil Procedure, and said
20 Defendant marks each pertinent page of such
21 material, "Subject to claim of protection under
22 Rule 26(c)(7) of the Federal Rules of Civil
23 Procedure," then 10 days notice shall be given
24 by Plaintiff to Defendant prior to divulging such
25 material in any legal proceeding (other than a
26 Grand Jury proceeding) to which the Defendant is
27 not a party.

28 IX

29 Jurisdiction is retained by this Court for the purpose
30 of enabling any of the parties to this Final Judgment to
31 apply to this Court at any time for such further orders
32

1 and directions as may be necessary or appropriate for the
2 construction of or carrying out of this Final Judgment,
3 for the modification of any of the provisions hereof,
4 for the enforcement of compliance herewith, and for the
5 punishment of violations hereof.

6 X

7 Entry of this Final Judgment is in the public interest.

8
9 Dated: 3-10-78

10 ROBERT H. SCHNACKE

11
12

UNITED STATES DISTRICT JUDGE