
IN THE MATTER OF
FEDERATED NATIONWIDE WHOLESALERS SERVICE,
GARYDEAN CORP. TRADING AS FEDERATED WHOLESALERS
SERVICE, ETC.

MODIFIED ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8649. Complaint, Nov. 10, 1964—Decision, Dec. 4, 1968

Order modifying an earlier order dated June 16, 1967, 71 F.T.C. 1083, which charged a Lynbrook, N.Y., mail-order catalog merchandiser with deceptive pricing and other misrepresentations, by removing, pursuant to a decision of the Court of Appeals, Second Circuit, 398 F. 2d 253, a proviso shifting the burden of proof from the second paragraph of the order, rewording the paragraph which uses "wholesale" and "low wholesale prices," and deleting the paragraph dealing with misrepresentations as to savings available to purchasers.

MODIFIED ORDER TO CEASE AND DESIST

Respondents having filed in the United States Court of Appeals for the Second Circuit a petition to review and set aside the

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order to cease and desist issued herein on June 16, 1967, and the court on July 8, 1968 [8 S.&D. 785], having issued its opinion and on August 14, 1968, having entered its final decree modifying and, as modified, affirming and enforcing said order to cease and desist, and the time allowed for filing a petition for certiorari having expired and no such petition having been filed;

Now, therefore, it is hereby ordered, That the aforesaid order of the Commission to cease and desist be, and it hereby is, modified in accordance with the said final decree of the court of appeals to read as follows :

It is further ordered, That Federated Nationwide Wholesalers Service, Garydean Corp., a corporation, trading under the names Federated Wholesalers Service, Nationwide Wholesalers Service and Nationwide-Federated Wholesalers Service or under any other name or names, Jay Norris Corp., a corporation, and their officers, and Joel Jacobs and Mortimer Williams, individually and as officers of each of said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of electric fry pans, electric broilers, clock-radios, electric can openers, jewelry, clothing, dinnerware, or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication in any advertising, including all advertising circulars, lists of wholesalers, or catalogs distributed by Federated Nationwide Wholesalers Service, Garydean Corp., or otherwise representing directly or by implication that an article of merchandise is being offered for sale at the lowest wholesale price unless the article is being offered for sale at the lowest price paid by retailers for such merchandise to any source of supply.

2. Representing, directly or by implication, in any advertising, including all advertising circulars, lists of wholesalers, or catalogs distributed by Federated Nationwide Wholesalers Service, Garydean Corp., or otherwise representing, directly or by implication that respondents are wholesalers, or that they sell articles of merchandise at wholesale prices or at low wholesale prices, unless at the times such representations are made they in fact:

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(a) Make a substantial and significant number of sales to retailers in the ordinary course of business, and

(b) The prices represented to be wholesale or low wholesale prices, do not exceed the prices usually and customarily paid by retailers for such merchandise to any source of supply, when purchased in the quantity offered for sale by respondents.

It is further ordered, That respondents 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 set forth herein.
