

Set Aside Order

103 F.T.C.

IN THE MATTER OF
DICTOGRAPH PRODUCTS, INC.

ORDER TO SET ASIDE IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 5655. Order, Sept. 24, 1953—Order To Set Aside, Jan. 17, 1984

The Federal Trade Commission has set aside the Sept. 24, 1953 order issued against Dictograph Products, Inc. (50 F.T.C. 281), in light of its actions in *Beltone Electronics Corp.*, Dkt. 8928 [100 F.T.C. 68 (1982)] and *Dahlberg Electronics Corp.*, Dkt. 8229 [101 F.T.C. 703 (1983)], which set aside prohibitions on the companies' use of exclusive dealing arrangements.

ORDER TO SET ASIDE ORDER TO CEASE AND DESIST

On September 24, 1953, the Federal Trade Commission issued an order against Dictograph Products, Inc. in Docket No. 5655 prohibiting Dictograph, in the sale of its own brand name hearing aids, from imposing exclusive dealing arrangements upon its dealers. [50 F.T.C. 281]

Two of Dictograph's larger competitors are now permitted by recent Commission actions to engage in the same exclusive dealing practices contained in the order against Dictograph. On July 26, 1982, the Commission dismissed the complaint in *Beltone Electronics Corp.*, Docket No. 8928 [100 F.T.C. 68], challenging, among other things, the same practices prohibited by the order against Dictograph. On April 11, 1983, the Commission, in *Dahlberg Electronics, Inc.*, Docket No. 8929 [101 F.T.C. 703], set aside prohibitions on Dahlberg's use of exclusive dealing arrangements, which were similar to those contained in the order against Dictograph.

On December 7, 1983, the Commission, pursuant to Section 3.72(b) of the Commission's Rules of Practice, 16 C.F.R. 3.72(b), issued an order to show cause why the proceeding herein should not be reopened to set aside the final cease and desist order in Docket No. 5655, prohibiting Respondent's use of exclusive dealing arrangements. Respondent was provided an opportunity to object to the proposed set aside of the order against it, and having failed to do so, is now deemed to have consented to such action. In view of the Commission's actions in *Beltone* and *Dahlberg*, the Commission believes that this modification is in the public interest.

Accordingly,

It is hereby ordered, That this matter be, and it hereby is, reopened

and that the order herein shall be set aside as of the effective date of this order.

Complaint

103 F.T.C.

IN THE MATTER OF

MACY'S NEW YORK, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS*Docket C-3130. Complaint, Jan. 31, 1984—Decision, Jan. 31, 1984*

This consent order requires a major New York City department store, among other things, to comply with the billing error resolution procedures of the Fair Credit Billing Act (FCBA) and the provisions of Regulation Z, which implement the FCBA. This requires the company to acknowledge a customer's *written* billing error notice within 30 days; resolve the dispute or mail an explanation as to why a statement is believed correct within 2 billing cycles; and maintain for at least 2 years, records evidencing compliance with the Act's billing error resolution procedures. The order prohibits the company from attempting to collect any amount of a bill in dispute, including any finance charge computed on such amount; failing to include on its periodic statements a notice advising customers that disputed amounts need not be paid pending resolution of the dispute; failing to forfeit the right to collect the amount in dispute up to \$50, should it fail to comply with the FCBA's billing error resolution procedures; and failing to timely credit payments to customers' accounts. Additionally, respondent must institute a comprehensive educational program for officers and employees who either establish the company's credit billing procedures or who respond to and resolve notifications of billing errors; conduct refresher courses annually for five years; and secure from such personnel a signed statement acknowledging that he/she has read the order, the FCBA, the provisions of Regulation Z, which implement the FCBA, and the educational materials explaining the Act and its requirements. Further, the company must timely establish a \$225,000 redress fund to be apportioned equally among those customers who 1) held an open-end credit account with the store during the period (Jan. 1, 1977 through Dec. 31, 1978; and 2) who sent the store a written inquiry concerning a billing error at the address designated by it for receipt of billing error notifications.

Appearances

For the Commission: *Shirley F. Sarna.*

For the respondent: *Carl D. Lobell, Weil, Gotshal & Manges, New York City.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and its implementing Regulation Z, duly promulgated by the Board of Governors of the Federal Reserve