

IN THE MATTER OF

MACY'S NORTHEAST, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE MAGNUSON-MOSS WARRANTY ACT AND SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-3527. Complaint, Sept. 13, 1994--Decision, Sept. 13, 1994

This consent order requires, among other things, the New York-based retail department store subsidiaries to comply with the Pre-Sale Availability Rule under the Magnuson-Moss Warranty Act, to deliver a copy of the consent order to retail store managers involved in consumer sales, to inform their retail store managers of their compliance responsibilities, and to develop and implement a program for instructing their sales personnel about the availability and location of manufacturers' warranty information.

Appearances

For the Commission: *Jeffrey Klurfeld, Gerald Wright and Christian White.*

For the respondents: *Carol Hecht Katz*, in-house counsel, New York, N.Y.

COMPLAINT

Pursuant to the provisions of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.*, and Rule 702, 16 CFR Part 702, promulgated thereunder, and the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Macy's Northeast, Inc., Macy's South, Inc., Macy's California, Inc., and Bullock's, Inc., corporations ("respondents"), wholly-owned subsidiaries of R. H. Macy & Co., Inc., a Delaware corporation, have violated the provisions of said Acts and Rule 702 promulgated under the Magnuson-Moss Warranty Act, and it appearing to the Commission that a proceeding by it would be in the public interest, alleges:

PARAGRAPH 1. The definitions of terms contained in Section 101 of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301, and in

Rule 702, 16 CFR 702.1 promulgated thereunder, shall apply to the terms used in this complaint.

PAR. 2. Respondent Macy's Northeast, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 151 W. 34th Street, New York, New York.

Respondent Macy's South, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 151 W. 34th Street, New York, New York.

Respondent Macy's California, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 50 O'Farrell Street, San Francisco, California.

Respondent Bullock's, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 50 O'Farrell Street, San Francisco, California.

PAR. 3. Respondents are now and have been engaged in the operation of retail department stores in New York, California and various other states. In the operation of their retail stores, respondents are now and have been distributing, advertising, offering for sale and selling, among other items, wearing apparel, consumer electronics, watches, home furnishings, housewares and small appliances, all of which are consumer products. Therefore, respondents are both suppliers and sellers of consumer products.

PAR. 4. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. In the ordinary course and conduct of their aforesaid business, respondents regularly sell or offer for sale consumer products for purposes other than resale or use in the ordinary course of the buyer's business. Therefore, respondents are sellers of consumer products.

PAR. 6. On or after March 12, 1987, respondents, in the ordinary course of their business as sellers of consumer products actually costing more than \$15 and manufactured on or after January 1, 1977, have failed to make the texts of written warranties readily available for examination by prospective buyers prior to sale through utiliza-

tion of one or both of the following methods required by 16 CFR 702.3(a), as amended:

1. Displaying the text of the warranty in close proximity to the warranted product;
2. Furnishing the text of the warranty upon request prior to sale and placing signs reasonably calculated to elicit the prospective buyer's attention in prominent locations in the store or department advising such prospective buyers of the availability of warranties upon request.

PAR. 7. Respondents' failures to comply with the provisions of 16 CFR 702, as amended, constituted and now constitute violations of the Magnuson-Moss Warranty Act and, pursuant to Section 110(b) thereof, unfair or deceptive practices under Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1).

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and no comments having been filed

thereafter by interested parties pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Macy's Northeast, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 151 W. 34th Street, New York, New York.

Respondent Macy's South, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 151 W. 34th Street, New York, New York.

Respondent Macy's California, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 50 O'Farrell Street, San Francisco, California.

Respondent Bullock's, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 50 O'Farrell Street, San Francisco, California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

The definitions of terms contained in Section 101 of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301, and in Rule 702, 16 CFR 702.1, promulgated thereunder, shall apply to the terms of this order.

I.

It is ordered, That respondents Macy's Northeast, Inc., Macy's South, Inc., Macy's California, Inc., and Bullock's, Inc., corporations, their successors and assigns, and their officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device in connection with the sale or offering for sale of any consumer product in or affecting commerce, do forthwith cease and desist from failing to make a text of any written

warranty on a consumer product actually costing more than \$15 readily available for examination by prospective buyers prior to sale through utilization of one or more means specified in 16 CFR 702.3(a), as amended.

II.

It is further ordered, That respondents shall, within thirty (30) days of the date of service of this order, deliver to each current retail store manager and assistant or operations manager engaged in the sale of consumer products on behalf of respondents, a copy of this order to cease and desist.

III.

It is further ordered, That respondents shall, within thirty (30) days of the date of service of this order, instruct all current retail store managers and assistant or operations managers engaged in the sale of consumer products on behalf of respondents as to their specific obligations and duties under the Magnuson-Moss Warranty Act (15 U.S.C. 2301) and this order.

IV.

It is further ordered, That respondents shall, for a period of not less than four (4) years from the date of service of this order, instruct all future retail store managers and assistant or operations managers who will be engaged in the sale of consumer products on behalf of respondents, before they assume said responsibilities for respondents, as to their specific obligations and duties under the Magnuson-Moss Warranty Act (15 U.S.C. 2301) and this order.

V.

It is further ordered, That respondents shall, within thirty (30) days of the date of service of this order, develop and implement a program to instruct their sales personnel about the availability and location of warranty information.

VI.

It is further ordered, That respondents shall, for a period of not less than five (5) years from the date of service of the order, maintain and upon request make available to the Federal Trade Commission for inspection and copying (i) copies of all written instructions provided by respondents to their retail store managers and assistant and operations managers and sales personnel regarding their obligations and duties under the Magnuson-Moss Warranty Act (15 U.S.C. 2301) and this order; (ii) copies of signs posted by respondents in their retail store outlets designed to elicit prospective buyers' attention to the availability of the text of written warranties for review upon request; and (iii) copies of the text of written warranties made readily available by respondents' retail store outlets for examination by prospective buyers on request.

VII.

It is further ordered, That respondents, for a period of six (6) years from the date of service of this order, shall notify the Commission at least thirty (30) days prior to any dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of the order.

VIII.

It is further ordered, That respondents shall, within ninety (90) days after service of this order on them, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF

MONTGOMERY WARD & CO., INCORPORATED

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE MAGNUSON-MOSS WARRANTY ACT AND SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-3528. Complaint, Sept. 13, 1994--Decision, Sept. 13, 1994

This consent order requires, among other things, the Illinois-based retail department store to comply with the Pre-Sale Availability Rule under the Magnuson-Moss Warranty Act, to deliver a copy of the consent order to retail store managers involved in consumer sales, to inform their retail store managers of their compliance responsibilities, and to develop and implement a program for instructing their sales personnel about the availability and location of manufacturers' warranty information.

Appearances

For the Commission: *Jeffrey Klurfeld, Gerald Wright and Christian White.*

For the respondent: *Philip Delk*, in-house counsel, Chicago, IL.

COMPLAINT

Pursuant to the provisions of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.*, and Rule 702, 16 CFR Part 702, promulgated thereunder, and the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Montgomery Ward & Co., Incorporated, a corporation ("respondent"), has violated the provisions of said Acts and Rule 702 promulgated under the Magnuson-Moss Warranty Act, and it appearing to the Commission that a proceeding by it would be in the public interest, alleges:

PARAGRAPH 1. The definitions of terms contained in Section 101 of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301, and in Rule 702, 16 CFR 702.1 promulgated thereunder, shall apply to the terms used in this complaint.