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STATE OF NEW YORK :
By ELIOT SPITZER, ATTORNEY GENERAL, :
: :
STATE OF CALIFORNIA, :
By BILL LOCKYER, ATTORNEY GENERAL, :
: :
COMMONWEALTH OF MASSACHUSETTS, :
By THOMAS F. REILLY, :
ATTORNEY GENERAL, :
: :
COMMONWEALTH OF PENNSYLVANIA, :
By TOM CORBETT, ATTORNEY GENERAL, :
: :
and :
: :
STATE OF MARYLAND, :
By J. JOSEPH CURRAN, JR., :
ATTORNEY GENERAL, :
: :
-against- :
: :
FEDERATED DEPARTMENT STORES, INC., :
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ASSURANCE

Pursuant to provisions of Section 63 of New York Executive Law and Section 340 of New York General Business Law, Pennsylvania Commonwealth Attorneys Act, 71 P.S. § 732-204(c), California Unfair Competition Act, Cal. Bus. and Prof. Code, §17200 et seq., Massachusetts General Law c. 93 §8, and Maryland Com. Law Code Ann. §11-209(a)(1), Eliot Spitzer, Attorney General of the State of New York, Bill Lockyer, Attorney General of the State of California, Thomas F. Reilly, Attorney General of the Commonwealth of Massachusetts, Tom Corbett, Attorney General of the Commonwealth of Pennsylvania, and J. Joseph Curran, Jr., Attorney General of the State of Maryland (collectively the “States”), caused an antitrust investigation to be made into the acquisition of The May Department Stores Company (“May”) by Federated Department Stores, Inc.

(“Federated”). Based upon their investigations, the Attorneys General have made the following contentions:

Summary

1. Federated is a corporation organized under the laws of Delaware, with its principal place of business in Cincinnati, Ohio, and is registered to do business in New York, California, Massachusetts, Pennsylvania, and Maryland.
2. May is a corporation organized under the laws of New York, with its principal place of business in St. Louis, Missouri, and is registered to do business in California, Massachusetts, Pennsylvania, and Maryland.
3. Federated and May are two of the nation’s leading department store retailers.
4. In the course of the investigation, Federated and May voluntarily produced documents and employees who were interviewed and/or examined under oath.
5. The Attorneys General contend that, in their respective States, Federated and May own and operate certain department stores that are in close proximity and often comprise most or all of the conventional, full-service department stores within particular shopping centers, malls, or other shopping areas. Such department stores offer consumers a distinctive combination of product choice, service and an appealing shopping experience that is not matched by smaller, more specialized retailers or by large discount stores. The proposed acquisition and elimination of competition, therefore, likely would have anticompetitive effects in such locations by, among other things, eliminating consumer choice and enabling Federated and any other department stores to raise prices, in violation of Clayton Act § 7, 15 U.S.C. §18, and other state and federal antitrust laws.

6. As provided herein, this prospective acquisition warrants that a combined Federated/May make certain divestitures. The purpose of the divestitures is to put ownership of the Identified Assets in hands other than Federated's and to encourage their acquisition by companies engaged in the department store business in competition with Federated.
7. The New York Attorney General has jurisdiction over this matter pursuant to the Donnelly Act, General Business Law Sec. 340 et seq, and Executive Law § 63.
8. The California Attorney General has jurisdiction over this matter pursuant to California's Unfair Competition Act, Cal. Bus. and Prof. Code, sections 17200 et seq.
9. The Massachusetts Attorney General has jurisdiction over this matter pursuant to the Massachusetts Antitrust Act, Mass. G. L. c. 93.
10. The Pennsylvania Attorney General has jurisdiction over this matter pursuant to the Commonwealth Attorneys Act, 71 P.S. § 732-204(c).
11. The Maryland Attorney General has jurisdiction over this matter pursuant to Md. Com. Law Code Ann. §11-209(a)(1).
12. Federated has agreed to resolve the investigation as set forth further below.
13. Rather than engaging in antitrust enforcement litigation respecting Federated's acquisition of May, the Attorneys General have elected to accept this Assurance.

AGREEMENT

Federated desires to settle and resolve this matter without admitting the Attorneys' General Summary and denying that they have committed any alleged violations of law. The Attorneys General and Federated hereby enter into this Assurance and agree as follows:

1. Federated consents to jurisdiction as to any matters respecting this Assurance brought by a State before the state courts of such State.
2. The provisions of this Assurance apply to Federated, their successors and assigns, subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Agreement by personal service or otherwise.

Definitions

3. “Assurance” means this voluntary Assurance and its schedules.
4. “Acquisition” means Federated’s proposed acquisition of May pursuant to the Agreement and Plan of Merger, dated February 27, 2005.
5. “Competing Department Store” means Bon Ton, Elder Beerman, Boscov’s, Dillards, Gottschalks, Nordstrom, Neiman-Marcus, Saks Fifth Avenue, Saks Department Store Group, Belks, Proffitts, MacRaes, Von Maur. At any time within ten (10) days of the closing of the Acquisition, the Attorney General of each State shall have discretion to designate other persons as Competing Department Stores, for purposes affecting that State, should such persons demonstrate to the satisfaction of such Attorney General that they already operate, or intend to operate the Identified Assets as, comparable department stores.
6. “Identified Assets” means the stores listed in Schedule A, applicable to New York, in Schedule B, applicable to California, Schedule C, applicable to Massachusetts, Schedule D, applicable to Pennsylvania, and Schedule E, applicable to Maryland. Included as “Identified Assets” in the case of each such store (except as may otherwise be provided

herein) are all assets, leases, properties, rights, titles and interests in and to owned or leased real property, together with all appurtenances, licenses and permits, whether held unconditionally or through an option, agreement or other device. For the purposes of the Assurance, Identified Assets does not include inventory.

7. "Lord & Taylor" means the Lord & Taylor department store brand owned and operated by May prior to the closing of the Acquisition.

AFFIRMATIVE RELIEF

Divestitures

8. Federated shall divest, absolutely and in good faith, the Identified Assets to acquirers using the process identified below. No prior approval from the Attorneys General is necessary to the extent an Identified Asset is sold to a Competing Department Store, except that Federated shall give the Attorney General of the pertinent State fourteen (14) days' advance notice before the closing of any divestiture of the substance and terms of each proposed divestiture herein and the opportunity to review pertinent transaction documents and interview pertinent personnel of Federated and the Competing Department Store acquirer. All divestitures to Competing Department Stores must include assurances by the acquirer that it will maintain each Identified Asset as a viable enterprise engaged in the department store business for a minimum of seven (7) years.
9. Federated's obligation to divest is subject to mall leases, reciprocal easement agreements, or other mall operational documents. Federated shall use all reasonable commercial efforts to remove any such impediment, shall refrain from itself invoking such provisions

wherever doing so would impair its obligations to divest, and shall provide any consents necessary to divest the Identified Assets.

10. Federated shall not take any action that will impede in any way the operation of the Identified Assets as department stores pending divestiture, including the exercise of any restrictive covenants and provisions.
11. Subject to the Attorneys General approval, Federated, at its own expense, shall retain an independent expert to provide an opinion of the “Commercially Reasonable Value” of each Identified Asset, which shall be determined by December 9, 2005. Such expert shall not have done significant work for Federated within the past three (3) years and shall not do significant work for Federated, without the Attorneys’ General consent, within two (2) years from the date that this engagement is completed. While not necessarily the only relevant factors, such valuation should include consideration of each property’s intrinsic worth, book value and actual market value in order to determine a Commercially Reasonable Value. The Commercially Reasonable Value of each Identified Asset shall be based solely on consideration of the value of the Identified Asset as if it were to be offered for sale for use as a conventional department store. Any offer from a Competing Department Store above the Commercially Reasonable Value shall be deemed a “Qualified Offer.”
12. Federated shall negotiate in good faith and be obligated to accept as to each Identified Asset a Qualified Offer from a Competing Department Store regardless of whether a higher value offer has been or could be received from someone other than a Competing Department Store. In the event that more than one Qualified Offer from a Competing

Department Store is received, Federated retains the right to choose a purchaser from among the Qualified Offers from Competing Department Stores.

13. For purposes of the previous paragraph, Federated shall entertain as a Qualified Offer from a Competing Department Store an offer from the mall owner/developer of each Identified Asset to the extent that such an offer evidences a binding commitment or arrangement to lease or sell the Identified Assets to a Competing Department Store. Federated must obtain the prior approval of the Attorney General of the State within which the Identified Asset is located before accepting such an offer. Nothing in this Assurance shall prevent a mall owner/developer from renovating, redeveloping or replacing an Identified Asset in a manner that includes plans for a Competing Department Store. Any agreement pursuant to this paragraph with a mall owner/developer must contain an express commitment by the mall owner that it will make a good faith effort to ensure within its ability to do so the continuation at each Identified Asset of a viable enterprise engaged in the department store business for a minimum of seven (7) years.
14. Federated shall not divest an Identified Asset to a Competing Department Store, either individually or through an offer from a mall owner/developer, if the Competing Department Store already has an existing department store location within seven (7) miles of that Identified Asset, except that the Attorney General of the State in which the Identified asset is located, in his/her discretion may waive this requirement.
15. Recognizing that the transactions provided for herein may involve some complexity, the expert shall also provide an opinion as to the value of each actual offer for an Identified Asset received by Federated should Federated and an Attorney General disagree upon

what such value is.

16. During the expert review and valuation process, Federated shall provide to the Attorneys General full and complete access to the expert and personnel, books, records and facilities and any documents concerning the valuation of the Identified Assets. Federated may provide any materials for consideration by the expert and the Attorneys General. The expert's valuations shall be provided simultaneously to Federated and the Attorneys General.
17. If no Qualified Offer is received for specific a Identified Asset, Federated shall no longer be bound by the terms of the Assurance with respect to that asset. Federated shall not ultimately sell any remaining Identified Assets for a price below that offered in any offer received from a Competing Department Store. However, Federated shall promptly notify any Competing Department Store that has made an offer that is below the level needed to be a Qualified Offer of that fact and give it the opportunity to submit a higher offer within seven (7) business days.
18. Should Federated determine to sell the Lord & Taylor business unit as a going concern, including the brand name and all physical assets and leases, it shall divest the Lord & Taylor locations in Garden City and Manhasset, New York as part of that sale. In the event that Federated does not sell the Lord & Taylor business, Federated shall not be obligated to divest such Lord & Taylor locations.
19. With respect to the Macy's location at The Promenade at Temecula in Temecula, California, this location is to be added to California Schedule B of the Assurance contingent upon the negotiation of an agreement between Federated and Forest City

Enterprises to permit expansion of the existing Robinsons-May store at this location.

Such an agreement is to be entered into within sixty (60) days of the date of this

Assurance. Federated, however, may seek extension of this time period, in sixty (60) day increments, not to exceed three such extensions. Approval of such extension requests shall not be unreasonably denied.

20. With respect to the Macy's Women's Store at The Oaks in Thousand Oaks, California, should a commitment to a plan of conversion of this location to a Bloomingdale's not be entered into between Federated and the Macerich Company, this Macy's Women's Store will be added to California Schedule B of this Assurance. Such an agreement is to be entered into within sixty (60) days of the date of this Assurance. Federated, however, may seek extension of this sixty (60) day time period, in sixty (60) day increments, not to exceed three such extensions. Approval of such extension requests shall not be unreasonably denied.
21. In addition to the Identified Assets in Schedule C, Federated is committed to using commercially reasonable efforts to divest certain of the department stores it operates (separate and apart from Lord & Taylor stores) in the following additional Massachusetts locations: the Macy's in the Natick Mall in Framingham, MA and either the Macy's or the Filene's in Downtown Crossing in Boston, MA. With respect to each location, Federated agrees to give the Massachusetts Attorney General notice of the proposed acquirer thirty days prior to the closing on each store. If there is no divestiture of a store in each of these locations within one year from the date of this Agreement, Federated shall give notice of Federated's future plans for the stores. While Federated is not

required to abide by the divestiture process described above for these locations, Federated shall: (1) with respect to the Natick Mall, waive, dismiss or release any current rights to oppose the Natick Mall expansion project; and (2) with respect to Downtown Crossing, use commercially reasonable efforts divest to an acquirer whose use of the property will include, but not be limited to, retail use.

22. With respect to the Filene's at Cape Cod Mall in Hyannis, if Federated is relieved of its obligation to divest Filene's because it does not receive a Qualified Offer from a Competing Department Store or mall owner/developer and Federated retains ownership and control of both stores at the Cape Cod Mall, then Federated shall divest the strip mall locations in Hyannis, MA which were operated by May Company to an acquirer approved by the Massachusetts Attorney General.

Obligations During Divestiture

23. During the divestiture process, Federated shall: (a) take such actions as are reasonably necessary to maintain the viability, marketability, and competitiveness of the Identified Assets, pending the divestiture of the Identified Assets, and to preserve the ability of the Identified Assets to compete at least at their current level of quality and capacity; (b) not permit the destruction, removal, wasting, deterioration or impairment of any of these assets, except for ordinary wear and tear that does not affect their viability, marketability, or competitiveness, and (c) transfer each Identified Asset in a manner that preserves each Identified Asset's marketability, viability, and competitiveness. The requirements of this provision include the obligation with respect to the Identified Assets to:
 - a. make all payments required to be paid under any contract or lease or under

- any governmental law, ordinance or regulations;
- b. maintain each business' books and records;
- c. maintain all operations at least at their current levels and not reduce hours or personnel;
- d. not display any signs or conduct any advertising that indicates that any business that is being divested is moving its operations to another location or that the business will close, nor display any signs or conduct any advertising that refers to any other existing Federated Store that was not displayed or conducted prior to August 29, 2005;
- e. not diminish or modify in any material respect the existing advertising expenditures, programs and policies for any business, other than changes in the ordinary course of business consistent with past practice for the businesses; and
- f. not transfer any on-site employees of the Identified Assets to another Federated operation.

The obligations of subsections (c) through (f) shall cease upon the determination and notification by Federated to the offeror of an accepted offer of an Identified Asset.

24. In divesting the Identified Assets, Federated shall offer the Identified Assets both as a package, or packages, and separately. In accomplishing the divestitures ordered by this Assurance, Federated promptly shall make known, by usual and customary means, the availability of the Identified Assets, and shall make special and prompt efforts to contact and engage in full pertinent discussions with all Competing Department Stores.

Federated shall begin this process immediately after the closing of the Acquisition.

Federated shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Assurance. Federated shall also offer to furnish to all prospective buyers, subject to customary confidentiality assurances, all information regarding the Identified Assets customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. However, such customary confidentiality assurances shall not prohibit any communication between potential purchasers and the States relating to the divestitures provided for herein. Federated shall make available such information to the States along with the next compliance report.

25. Federated, to the extent customary, shall permit prospective purchasers of the Identified Assets to make such inspection of such assets; access to any and all zoning and other permit documents and information; access to any and all environmental documents and information as required by law; and, access to any and all financial, operational, or other documents and information.
26. Federated may negotiate to sell the Identified Assets on an “as is / where is” basis. Federated shall make the usual and customary warranties to any and all purchasers of the Identified Assets in a contract of purchase and sale of such assets. Federated will not undertake, directly or indirectly, following the divestiture of each asset, any challenges to the environmental, zoning, or other permits pertaining to the operation of the Identified Assets.
27. Federated shall collect all offers for the Identified Assets no later than February 1, 2006.

Federated shall inform the winning offerors of their status no later than March 1, 2006 (the "notification date"). No later than fourteen (14) days prior to the notification date, to the extent they have not done so already, Federated will provide all of the offers and proposed transactional documents to the Attorneys General and will inform them of the prospective winners. Federated may accept Qualified Offers from Competing Department Stores at any time prior to March 1, 2006 with the express written consent of the Attorney General of the State in which the Identified Asset is located. The sales of the Identified Assets shall be closed before September 1, 2006.

28. In the event that a sale of an Identified Asset to a Competing Department Store fails to close prior to September 1, 2006, Federated shall be obligated to offer that Identified Asset for sale to any other Competing Department Store that submitted a Qualified Offer and provide ten (10) business days for that Competing Department Store to renew or withdraw its offer. If the Competing Department Store renews such offer it shall be treated as a Qualified Offer notwithstanding that it is past any time period otherwise provided herein. If the offer is not renewed or is withdrawn, Federated shall be released from the terms of this Assurance with respect to that Identified Asset.

GENERAL PROVISIONS

29. Within thirty (30) days after the date Federated signed this Assurance and every thirty (30) days thereafter until Federated has fully complied with the provisions herein, Federated shall submit to the Attorneys General verified written reports setting forth in detail the manner and form in which they intend to comply, are complying, and have

complied with this Assurance. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with the Assurance, including a description of all substantive contacts or negotiations for divestitures and the identity of all parties contacted.

Federated shall include, subject to any legally recognized privilege, in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

30. During the pendency of this Assurance, for the purpose of securing or determining compliance with it, and subject to any legally recognized privilege, Federated shall permit any duly authorized representative of the Attorneys General:
 - a. Access, following reasonable notice, during office hours and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, calendars, and other records and documents in the possession, custody or control of Federated relating to any part of this Assurance; and
 - b. Upon reasonable notice, and without restraint or interference from Federated, to interview, under oath and on a transcribed record, any officer, employee or other agent of Federated, who may have counsel present for that individual.

31. Federated shall notify each State when it believes that it has satisfied the obligations of the Assurance as to that State. No later than twenty-one (21) days after receiving such notice from Federated, the Attorney General shall either certify Federated's compliance

with the obligations of the Assurance as to that State or advise Federated that it declines to do so. The Attorneys General will not unreasonably withhold certification and, where they decline to certify, shall state the basis for that decision.

32. The confidentiality agreement(s) previously entered into between Federated and the Attorneys General shall govern any information obtained by the Attorney General under this Assurance.
33. Federated shall provide information in response to any other written reasonable requests from the Attorneys General concerning any part of this Assurance.
34. This Assurance shall not be construed or interpreted to signify express or implied approval by the Attorneys General, or any of its agencies, departments or divisions, of any acts, practices, policies or agreements carried out or entered into by Federated or May.
35. This Assurance shall not be construed as binding on any person not a signatory, or as resolving any issue of law not specifically addressed in this Assurance.
36. The Attorneys General shall not institute any proceeding or take any action for any conduct prior to the date of the execution of this Assurance based on any practice that is addressed in this Assurance, except as allowed by law to enforce this Assurance in the event of a violation.
37. For each State, this Assurance shall be governed by and construed in accordance with the laws of the individual State applicable to an agreement negotiated, executed, entered into and performed solely within that State.
38. Federated represents and warrants that they have fully read and understand this

Assurance, that they understand the legal consequences of signing this Assurance, and that there are no other representations or agreements not stated in writing in this Assurance.

39. This Assurance may be signed in counterparts, each of which shall be deemed an original.
40. Any amendments to this Assurance shall be in writing and signed by all parties.
41. The parties represent that an authorized representative of each has signed the Assurance with full knowledge, understanding and acceptance of its terms and that this person has done so with authority to legally bind the respective party.
42. All of the obligations of this Assurance that are binding on any party or parties shall be binding upon their successors and assigns.
43. Any notice or other writing required or permitted to be given under this Assurance shall be sufficient if made as follows:

To the Attorneys General:

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To Federated:

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Washington, D.C. 20001-2113
Ph: (202) 879-4668
Fax: (202) 626-1700

WHEREFORE, the following signatures are affixed hereto this __ day of August, 2005.

FEDERATED DEPARTMENT STORES, INC.

By: _____

DENNIS J. BRODERICK

Senior Vice President, General Counsel and Secretary

JONES DAY, ATTORNEYS FOR
FEDERATED DEPARTMENT STORES, INC.

By: _____

PHILLIP A. PROGER

STATE OF NEW YORK
ELIOT SPITZER
Attorney General

By: _____

JAY L. HIMES

Bureau Chief

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Richard E. Grimm

Linda Gargiulo

Peter D. Bernstein

Assistant Attorneys General

Antitrust Bureau

STATE OF CALIFORNIA
BILL LOCKYER
Attorney General

By: _____

ANN MARIE MARCIARILLE

Deputy Attorney General

COMMONWEALTH OF MASSACHUSETTS
THOMAS F. REILLY
Attorney General

By: _____
JESSE CAPLAN
Chief, Consumer Protection & Antitrust Division

Mary B. Freeley
Jeffrey S. Shapiro
Assistant Attorneys General
Consumer Protection & Antitrust Division

COMMONWEALTH OF PENNSYLVANIA
THOMAS W. CORBETT, JR.
Attorney General

By: _____
JAMES A. DONAHUE, III
Chief Deputy Attorney General
Antitrust Section

Jennifer J. Kirk
Deputy Attorney General
Antitrust Section

STATE OF MARYLAND
J. JOSEPH CURRAN, JR.
Attorney General

By: _____
ELLEN S. COOPER
Assistant Attorney General and
Chief, Antitrust Division

John R. Tennis
Assistant Attorney General

Schedule A

Filene's
Crossgates Mall
Albany, New York

Lord & Taylor
Wall Whitman
Huntington Station, NY

Lord & Taylor
South Shore Mall
Bay Shore, NY

Schedule B

Promenade at Topanga (former I. Magnin building)
Woodland Hills, California

Macy's West
The Grove at Simi Valley
Simi Valley, California

Macy's West
Westminster Mall
Westminster, California

Macy's West Apparel
Shopping Town Palm Desert
Palm Desert, California

Robinsons-May
Del Amo Fashion Center
Torrance, California

Macy's West
Fashion Island
Newport Beach, California

Robinsons-May South
The Oaks
Thousand Oaks, California

Schedule C

Filene's
Burlington Mall
Burlington, MA

Macy's
Northshore Mall
Peabody, MA

Macy's
Southshore Mall
Braintree, MA

Macy's
Westgate Mall
Brockton, MA

Filene's
Cape Cod Mall
Hyannis, MA

Schedule D

Kaufmann's
Monroeville Mall
Monroeville, PA

Kaufman's
South Hills Village
Pittsburgh, PA

Macy's Central/Lazarus
Ross Park Mall
Pittsburgh, PA

Strawbridge's
King of Prussia Plaza
King of Prussia, PA

Strawbridge's
Lehigh Valley Mall
Whitehall, PA

Strawbridge's
Montgomery Mall
North Wales, PA

Strawbridge's
Willow Grove Park Mall
Willow Grove, PA

Schedule E

Macy's
Owings Mills Mall
Owings Mills, MD

Macy's
White Marsh Mall
White Marsh, MD

Macy's
Marley Station Mall
Glen Burnie, MD

Hecht's
Wheaton Mall
Wheaton, MD