

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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STATE OF NEW YORK ex. rel Eliot Spitzer,

Plaintiff,

v.

MARTIN SCHLOSSBERG, and McREG,
INDUSTRIES, INC., d/b/a "ESTELLE'S
DRESSY DRESSES,"

Defendants.
-----X

Index No. 02-30814

CONSENT JUDGMENT

Plaintiff having filed its complaint on December 27, 2002 (the "Complaint"), Defendants having consented to the jurisdiction and venue of this Court, and the parties having agreed on a final and complete resolution of all claims brought against Defendants, and without the Court finding or either or both Defendants admitting any liability, or either or both Defendants conceding the veracity of the facts alleged in the Complaint, except for those concerning jurisdiction and venue, it is hereby:

ORDERED, ADJUDGED, AND AGREED THAT:

Payments

1. Defendants shall pay the Plaintiff the total amount of \$65,000, pursuant to the New York Donnelly Act and Section 63 of the Executive Law. The foregoing amount shall be paid by bank or certified check, receipt of which, in escrow, the Plaintiff hereby acknowledges. Upon entry of this Consent Judgment, the escrow shall terminate and the payment check shall be released to Plaintiff without further Order of this Court or further notice to Defendants.

Definitions

2. For purposes of this Consent Judgment, the following terms shall have the meanings defined below:

A. "Agreement" means any agreement in fact, whether written or oral, formal or informal, or express or implied, and any contract, combination, conspiracy, concerted action, understanding, arrangement, plan, or scheme.

B. "Dresses" mean women's apparel worn at (i) proms; (ii) weddings; (iii) parties; (iv) anniversaries; or (v) any other social or business occasion.

C. "Document" means the original and any non-identical copy (whether different from the original because of handwritten notes or underlining made on the document, attachments, or otherwise) or drafts of the document, any handwritten, typewritten, printed, recorded or graphic matter, however produced or reproduced, and any mechanical, magnetic, or electronic recording of any voice, sound, image or data (including any e-mail) in the possession, custody, or control, wherever located, of either or both Defendants.

D. "Estelle's" means: (i) McReg Industries, Inc. and its subsidiaries, divisions, and affiliates; (ii) each other Person owned or controlled by any of the foregoing persons, either directly or indirectly, in whole or in part; (iii) each partnership or joint venture of which any of the foregoing persons is a member; (iv) all present and former shareholders, directors, managers, officers, employees, agents, consultants, representatives or other Persons acting for or on behalf of any of them, including Marty Schlossberg and Estelle Schlossberg; and (v) all predecessors, successors, and assignees of any of the foregoing.

E. "Including" means including but not limited to.

F. "Participating in," when used in reference to an Agreement, means entering into, organizing, soliciting, adhering to, maintaining, implementing, carrying out, enforcing, assisting, or otherwise facilitating such Agreement by any means whatsoever.

G. "Person" means any individual, partnership, corporation, or other legal, governmental, or business entity.

H. "Relevant Period" means the five-year period beginning as of the date of entry of this Judgment.

I. "Supplier" means any Person whose Dresses Estelles purchases, regardless of whether that Person manufactures the Dresses purchased by Estelles.

Prohibited Conduct

3. For the Relevant Period, each Defendant, directly or indirectly or through any other Person, is hereby enjoined and restrained from Participating in any Agreement with any Supplier:

A. To refuse to sell, cease to sell, suspend sales to, or otherwise to restrict the sales of Dresses to any retailer other than Estelle's;

B. To refuse to offer, cease to offer, suspend offers to, or otherwise to restrict any term or condition of sale of Dresses (including any goods or services offered in conjunction with sales) offered to any retailer of Dresses other than Estelle's;

C. To fix, raise, maintain, peg, or otherwise stabilize the prices at which any retailer other than Estelle's sells or offers to sell Dresses; or

D. To fix, raise, maintain, peg, or otherwise stabilize the prices at which any Supplier

sells or offers to sell Dresses to any retailer other than Estelle's.

4. For the Relevant Period, Defendants are further enjoined and restrained from:

A. Attempting or threatening to engage in any of the conduct prohibited in paragraph 3; and

B. Encouraging, suggesting, advising, pressuring, inducing, or otherwise attempting to secure any Person to engage in any action that would be prohibited by paragraphs 3 or 4.A.

Reporting and Visitation Obligations

5. During the Relevant Period and for one hundred eighty (180) days thereafter, for the purpose of determining or securing compliance with this Consent Judgment, and subject to any legally recognized privilege, Defendants shall permit any duly authorized representative of the Attorney General:

A. Access 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 either or both Defendants relating to any matter contained in this Consent Judgment; and

B. Upon five days' notice to Defendants, and without restraint or interference from Defendants, to interview, under oath and on a transcribed record, either Defendant and any other Person employed by Estelle's, who may have counsel present.

6. During the Relevant Period, and for two years thereafter:

A. Defendants shall report, in writing, to the Attorney General any act prohibited by paragraphs 3 or 4 of this Consent Judgment within seven (7) days of acquiring knowledge of the act;

B. During the Relevant Period, on each anniversary of the entry of this Consent Judgment, each Defendant shall certify to the Attorney General, in writing, that to such Defendant's knowledge, information and belief there has been no act prohibited by paragraphs 3 or 4 of this Consent Judgment;

C. Defendants shall notify the Attorney General in writing, within seven (7) days of: (i) any change in their principal address; (ii) as to Defendant McReg Industries, Inc., any change in corporate name and any merger, dissolution, or sale of all or substantially all of the corporation's assets; and (iii) any other change that may affect the ability of either or both Defendants to comply with the obligations of this Consent Judgment.


Retention of Jurisdiction

7. This Court shall retain jurisdiction over this action and the parties for the purpose of enabling any party to apply to this Court for such further orders and directions as may be necessary or appropriate to carry out or construe this Consent Judgment, to modify or terminate any of the provisions of this Consent Judgment for good cause shown, and to enforce compliance with and to punish any violations of this Consent Judgment.

Other Matters

8. This Consent Judgment shall apply to any successor of either Defendant.

9. Nothing in this Consent Judgment is intended: (a) to confer upon any Person not a party to this action any rights or remedies whatsoever; or (b) to release, waive, or otherwise prejudice any claim by any Person not a party to this action.

K. 
Hon. **RALPH F. COSTELLO**
Justice of the Supreme Court

Judgment entered this 27th
day of December, 2002.

Clerk of the Court

CONSENT

All parties to this action, as undersigned, hereby consent to the making and entry, without further notice, of the foregoing Consent Judgment.

Plaintiff

STATE OF NEW YORK
ex. rel. ELIOT SPITZER
Attorney General of the
State of New York

By: 

JAY L. HIMES
Bureau Chief, Antitrust Bureau

GARY P. WEINSTEIN
Assistant Attorney General
Antitrust Bureau
Of Counsel

Defendants


MARTIN SCHLOSSBERG

McREG INDUSTRIES, INC.,
d/b/a "ESTELLE'S DRESSY DRESSES"

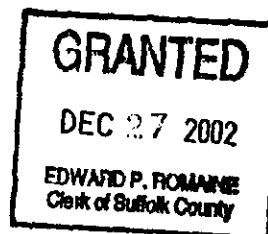
By: 

Authorized Officer


Justice of the Supreme Court
RALPH F. COSTELLO

12-27-02

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Sir:

Please take notice that the within is a true copy of
duly filed and entered in the office of the Clerk
of _____ County, on
the _____ day of _____, 19 _____

Yours, etc.,
ELIOT SPITZER
Attorney General,

Attorney For

Office and Post Office Address
120 Broadway, New York, N.Y. 10271
To _____, Esq.

Attorney for

Sir:

Please take notice that the within

will be presented for settlement and signature herein
to the Hon. _____
one of the judges of the within named Court, at

in the Borough of _____ day of _____
City of New York, on the _____, at _____ M.
Dated, N.Y., _____, 19 _____

Yours, etc.
ELIOT SPITZER
Attorney General,

Attorney For

Office and Post Office Address
120 Broadway, New York, N.Y. 10271
To _____, Esq.

Attorney for

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CONSENT JUDGMENT

ELIOT SPITZER

Attorney General
the State of New York

Attorney for.....

Office and Post Office Address
120 Broadway, New York, N.Y. 10271
Tel. (212) 416-8559

Personal service of a copy of

within.....

is admitted this.....day of

.....19

2003 JAN -2 PM 3:53
EDWARD P. ROCHAINE
CLERK OF
SUFFOLK COUNTY

FILED