

TRADE REGULATION--VIOLATION--ISSUE OF USE OF TERM "WHOLESALE" IN ADVERTISING. G.S. 75-29.¹

The (*state number*) issue reads:

"Did the defendant advertise the sale of its merchandise using the term "wholesale" with regard to its sale prices?"

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, two things:

First, that the defendant advertised the sale of its merchandise using the term "wholesale" with regard to its sale prices.²

Second, that the defendant advertised the sale to one or more customers who did not have a recorded certificate of resale.³

Finally, as to this issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence that the defendant advertised the sale of its merchandise using the term "wholesale" and that the advertised sale was to one or more customers not having a recorded certificate of resale, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

¹"This section shall not apply to the sales of farm products, fertilizers, insecticides, pesticides or petroleum." G.S. § 75-29(c).

²In situations where a business uses the word "wholesale" in its name, see N.C.P.I.--Civil 813.40.

³A certificate of resale is defined at G.S. § 105-164.28.

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If, on the other hand, you fail to so find then it would be
your duty to answer this issue "No" in favor of the defendant.