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6 UNITED STATES DISTRICT COURT
7 CENTRAL DISTRICT OF CALIFORNIA

8 UNITED STATES OF AMERICA,)
9 Plaintiff,) CIVIL ACTION NO. 94-5522
10 v.) COMPLAINT
11) (For Violation of
12 CALIFORNIA SUNCARE, INC.,) the Sherman Antitrust
13 Defendant.) Act)
14 Filed: August 12, 1994

15 The United States of America, plaintiff, by its
16 attorneys acting under the direction of the Attorney General
17 of the United States, brings this civil action against the
18 above-named defendant and complains and alleges as follows:

19 I

20 JURISDICTION AND VENUE

21 1. This complaint is filed under Section 4 of the
22 Sherman Act, as amended (15 U.S.C. § 4), in order to prevent
23 and restrain violations, as hereinafter alleged, by the
24 defendant of Section 1 of the Sherman Act (15 U.S.C. § 1).

1 2. Defendant transacts business and is found in the
2 Central District of California and maintains its principal
3 office in the Central District of California.

4 II

5 DEFINITIONS

6 3. "Person" means any individual, corporation,
7 partnership, company, sole proprietorship, firm or other
8 legal entity.

9 4. "Dealer" means any person, not wholly owned by
10 California SunCare, Inc., who purchases or acquires indoor
11 tanning products manufactured or sold by California SunCare
12 Inc. for resale.

13 5. "Indoor tanning products" means products applied to
14 the skin in order to enhance, promote, preserve, or
15 accelerate the skin tanning process or to protect the skin
16 from adverse effects that may result from the tanning
17 process.

18 III

19 DEFENDANT AND CO-CONSPIRATORS

20 6. California SunCare, Inc. ("California SunCare") is
21 made a defendant herein. California SunCare is a
22 corporation located in the Central District of California,
23 organized and existing under the laws of the State of
24 California.

25 7. Various companies and individuals who are dealers,
26 not made defendants in this complaint, have been induced to

1 participate by and have participated with the defendant in
2 the offense charged herein and performed acts and made
3 statements in furtherance of it.

4 IV

5 TRADE AND COMMERCE

6 8. California SunCare is a leading seller of indoor
7 tanning products in the United States. The indoor tanning
8 products sold by California SunCare are manufactured by
9 California SunCare in California.

10 9. California SunCare sells substantial quantities of
11 indoor tanning products to dealers throughout the United
12 States. These dealers resell California SunCare's indoor
13 tanning products throughout the United States to tanning
14 salons which in turn resell the tanning products to
15 consumers.

16 10. During the period covered by this complaint, there
17 has been a continuous and uninterrupted flow in interstate
18 commerce of indoor tanning products from California
19 SunCare's facilities in California to dealers throughout the
20 United States. The activities of the defendant and its
21 co-conspirators, as hereinafter described, have been within
22 the flow of, and have substantially affected, interstate
23 commerce.

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V

VIOLATION ALLEGED

11. Beginning at least as early as November 1992, and continuing at least through April 1994, the exact dates being unknown to the United States, the defendant and its co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, as amended (15 U.S.C. § 1). This unlawful combination and conspiracy will continue or may be renewed unless the relief prayed for herein is granted.

12. The combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and its co-conspirators to fix and maintain the resale price of indoor tanning products at the amount set by the defendant, California SunCare.

13. In furtherance of this combination and conspiracy, the defendant did those things which, as hereinabove alleged, it combined and conspired to do, including:

- (a) establishing and communicating to dealers a minimum resale price for indoor tanning products purchased from California SunCare; and
- (b) obtaining agreements from dealers to maintain the minimum resale price as a condition of receiving and continuing to receive indoor tanning products from California SunCare.

VI

EFFECTS

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3 14. The aforesaid combination and conspiracy has had
4 the following effects, among others:

5 (a) resale prices of indoor tanning products have been
6 fixed and maintained; and

7 (b) competition in the sale of indoor tanning products
8 by dealers has been restrained, suppressed, and
9 eliminated.

VII

PRAYER FOR RELIEF

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11 WHEREFORE, plaintiff prays:

12 1. That the Court adjudge and decree that the
13 defendant has combined and conspired to restrain interstate
14 trade and commerce of indoor tanning products in violation
15 of Section 1 of the Sherman Act.


16 2. That the defendant, its officers, directors,
17 agents, employees and successors and all other persons
18 acting or claiming to act on their behalf be enjoined and
19 restrained from, in any manner, directly or indirectly,
20 continuing, maintaining, or renewing the combination and
21 conspiracy hereinbefore alleged, or from engaging in any
22 other combination, conspiracy, contract, agreement,
23 understanding or concert of action having a similar purpose
24 or effect, and from adopting or following any practice,
25 plan, program, or device having a similar purpose or effect.

26 3. That plaintiff have such other relief as the Court
27 may deem just and proper.
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1 4. That plaintiff recover the costs of this action.

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Dated:


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