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U. S. DISTRICT COURT
DISTRICT OF IDAHO
Filed at 4:15 P M

APR 26 1977

JERRY L. CLAPP, Clerk
By [Signature] Deputy

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil Action No. 1-74-66
)	
v.)	
)	<u>STIPULATION AND ORDER</u>
ALBERTSON'S, INC., ET AL.,)	
)	
Defendants.)	

Whereas plaintiff United States and defendant Albertson's, Inc. have entered into a Stipulation and proposed Final Judgment which upon entry by the Court will terminate plaintiff's cause of action against defendant Albertson's; and


Whereas entry of the proposed Final Judgment in this case will render moot any other claims for relief in this case;

Now, therefore, in consideration of the above, plaintiff United States of America, defendant Di Giorgio Corporation, and intervening defendants Z Inc., Phillip Alton Peterson, Clarence Mitchell, George Rudge, Hyde's Super Market, Inc., R & B Market of Caldwell, Inc., R & B Market of Payette, Inc., Max Henry Jr., David Lee Rieb, Sun Valley Shopping Center, Inc., Richard W. Gallinger, Atwell J. Perry, Clinton D. Nelson, Frank Eisenhauer, and Jerry Stoor, by their respective counsel, hereby stipulate as follows:

Upon entry of the proposed Final Judgment in this case,

1 the case may be dismissed as to all remaining defendants.

2
3 FOR PLAINTIFF UNITED STATES OF AMERICA

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5 
6 JAMES E. FIGENSHAW
7 Attorney, Department of Justice

8 FOR DEFENDANT DI GIORGIO CORPORATION

9
10 
11 ROBERT S. DAGGETT

12 FOR ALL OF THE INTERVENING DEFENDANTS

13
14 
15 RICHARD B. EISMANN

16
17
18 IT IS SO ORDERED

19
20 DATED: April 26, 1977.

21
22 SIGNED: Ray McMichael
23 FEDERAL DISTRICT JUDGE *F.M.S.*

U. S. DISTRICT COURT
DISTRICT OF IDAHO
Filed at 4:15 P M

APR 26 1977

JERRY L. CLAPP, Clerk
By [Signature] Deputy

UNITED STATES DISTRICT COURT

DISTRICT OF IDAHO

10	UNITED STATES OF AMERICA,)	
)	
11	Plaintiff,)	Civil Action No. 1-74-66
)	
12	v.)	
)	
13	ALBERTSON'S, INC., ET AL.)	
)	
14	Defendants.)	
)	

FINAL JUDGMENT

Plaintiff United States of America, having filed its complaint herein on April 19, 1974, and defendant Albertson's, Inc., having appeared by its attorney, and both parties by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of law or fact herein and without this Final Judgment constituting evidence or admission by any party with respect to any issue of law or fact herein;

NOW, THEREFORE, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, and DECREED:

I

This Court has jurisdiction over the subject matter herein and the parties consenting hereto. The complaint states a claim upon which relief may be granted under Section 7 of the

1 Act of Congress of October 15, 1914 (15 U.S.C. §18), as
2 amended, commonly known as the Clayton Act.

3 II

4 The Mountain States wholesale grocery business means the
5 wholesale grocery business of the Mountain States Wholesale
6 Division of Albertson's, Inc. It shall include inventories,
7 customer accounts other than Albertson's, real and personal
8 property and goodwill. It shall not include the sundries
9 business of that division.

10 III

11 The provisions of this Final Judgment shall apply to the
12 defendant Albertson's, Inc. and to each of its subsidiaries,
13 successors and assigns, and to each of their officers,
14 directors, agents, and employees, and to all other persons in
15 active concert or participation with any of them who receive
16 actual notice of this Final Judgment by personal service or
17 otherwise.

18 IV

19 Defendant Albertson's, Inc. is hereby ordered and directed
20 to divest within eighteen (18) months from the date of entry
21 of this Final Judgment all of its interest in the Mountain
22 States wholesale grocery business to a person approved by the
23 plaintiff, or failing such approval, by the Court.

24 V

25 Each sixty (60) days until divestiture has been completed,
26 the defendant Albertson's, Inc. shall file with this Court
27 and serve upon the plaintiff an affidavit as to the fact and
28 manner of compliance with Section IV of this Final Judgment.

29 VI

30 For a period of five (5) years, defendant Albertson's,
31 Inc. is enjoined from acquiring any retail chain of grocery
32 stores (with more than 4 retail outlets or combined annual

1 sales exceeding \$5 million) or wholesale grocery business in
2 the State of Idaho or Eastern Oregon (within 200 miles of
3 Boise, Idaho), except with the approval of the plaintiff or of
4 this Court upon a showing that such acquisition will not
5 substantially lessen competition or tend to create a monopoly.
6 Nothing in this section shall be construed to prohibit, or
7 require said prior consent as to the creation of de novo
8 retail stores or the reorganization of existing retail stores.

9 VII

10 For the purpose of determining or securing compliance
11 with this Final Judgment, and for no other purpose, and
12 subject to any legally recognized privilege, from time to
13 time:

14 (A) Duly authorized representatives of the Department of
15 Justice shall, upon written request of the Attorney General
16 or of the Assistant Attorney General in charge of the Antitrust
17 Division, and on reasonable notice to defendant made to its
18 principal office, be permitted:

19 (1) Access during office hours of such
20 defendant to inspect and copy all books,
21 ledgers, accounts, correspondence, memoranda
22 and other records and documents in the
23 possession or under the control of defendant,
24 who may have counsel present, relating to
25 any matters contained in this Final Judgment;
26 and

27 (2) Subject to the reasonable convenience
28 of defendant and without restraint or
29 interference from it, to interview officers,
30 employees and agents of defendant, who may
31 have counsel present, regarding any such
32 matters.

1 (B) Upon the written request of the Attorney General or
2 of the Assistant Attorney General in charge of the Antitrust
3 Division made to defendant's principal office, defendant shall
4 submit such written report, under oath if requested, with
5 respect to any of the matters contained in this Final Judgment
6 as may be requested.

7 No information or documents obtained by the means pro-
8 vided in this Section VII shall be divulged by any representa-
9 tive of the Department of Justice to any person other than a
10 duly authorized representative of the Executive Branch of the
11 United States, except in the course of legal proceedings to
12 which the United States is a party, or for the purpose of
13 securing compliance with this Final Judgment, or as otherwise
14 required by law.

15 If at the time information or documents are furnished by
16 a defendant to plaintiff, such defendant represents and
17 identifies in writing the material in any such information
18 or documents of a type described in Rule 26(c)(7) of the
19 Federal Rules of Civil Procedure, and said defendant marks
20 each pertinent page of such material, "Subject to claim of
21 protection under Rule 26(c)(7) of the Federal Rules of
22 Civil Procedure," then 10 days notice shall be given by
23 plaintiff to such defendant prior to divulging such material
24 in any legal proceeding (other than a Grand Jury proceeding)
25 to which that defendant is not a party.

26 VIII

27 Jurisdiction is retained by this Court for the purpose
28 of enabling any of the parties to this Final Judgment to apply
29 to this Court at any time for such further orders and
30 directions as may be necessary or appropriate for the
31 construction or carrying out of this Final Judgment, for the
32 modification of any of the provisions hereof, for the enforce-

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ment of compliance therewith, and for the punishment of
violations thereof.

IX

Entry of this Final Judgment is in the public interest.

DATED: *April 26, 1977.*

Raymond Michaels
United States District Judge
R.M.J.