

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PABST BREWING COMPANY,
SCHENLEY INDUSTRIES, INC.,
THE VAL CORPORATION,

No. 59-C-21

ENTERED AUG 6 1969

Defendants.

FINAL JUDGMENT CONCERNING BLATZ BRANDS

Plaintiff, United States of America, having filed its complaint herein on October 1, 1959, the court having denied the motions for summary judgment of dismissal made by the defendants Schenley Industries, Inc., and The Val Corporation on April 7, 1960, all defendants having appeared by their attorneys and filed their answers to such complaint denying the substantive allegations thereof, testimony having been taken at trial hereof, the court having announced its decision and filed its findings of fact and conclusions of law herein on February 28, 1969 adjudging that the acquisition of the business and assets of Blatz Brewing Company by Pabst in 1958 was in violation of Section 7 of the Clayton Act and setting the matter for a conference on divestiture, such decision having been publicized in newspapers of national circulation and brewing publications throughout the United States, conferences on the question of relief having been held on several occasions since such date, the court having received and considered motions submitted by Pabst and related offers to purchase the Blatz business from Pabst including those submitted by G. Heileman Brewing Company, Inc., Associated Brewing Company, Grain Belt Breweries, Inc., Stroh Brewing Company, Bankit Industries and United Black Enterprises; further conferences with respect thereto having

been held and extended hearings on such matter having been attended by all parties and said potential purchasers, all of whom were represented by counsel and participated in such hearings, plaintiff having no objection to the sale by Pabst of the Blatz business to G. Heileman Brewing Company, Inc., and the court having fully considered the matter, it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I

Jurisdiction

This court has jurisdiction of the subject matter hereof and of the parties hereto pursuant to Section 15 of the Act of Congress of October 15, 1914, as amended entitled "An Act to Supplement Existing Laws Against Unlawful Restraints and Monopolies and For Other Purposes" commonly known as the Clayton Act and has previously filed its findings and conclusions separate from this Final Judgment:

II

Definitions

As used in this Final Judgment:

- A. "Pabst" shall mean defendant Pabst Brewing Company, a corporation organized and existing under the laws of the State of Delaware;
- B. "Schenley" shall mean defendant Schenley Industries, Inc., a corporation organized and existing under the laws of the State of Delaware;
- C. "Val" shall mean defendant The Val Corporation, a corporation dissolved under the laws of the State of Wisconsin on or about September 2, 1958;
- D. "Heileman" shall mean G. Heileman Brewing Company, Inc., a corporation organized and existing under the laws of the State of Wisconsin.

E. "Person" shall mean any individual, partnership, firm, corporation, association or other legal or business entity;

F. The "Blatz business" shall mean the trade names Blatz and Tempo ("the Blatz Brands") and the intangible and tangible assets associated therewith which are to be transferred by Pabst to Heileman and which include all right of Pabst in the name Blatz and all trademarks, brands, trade names, d/b/a's and other copyrights, formulas and similar intangible assets relating to the Blatz Brands, patents relating to the preparation of extract of fresh hops and the following items owned by Pabst on the closing date and bearing the identification of the Blatz Brands:

1. All fibre cartons containing bottles (together with the bottles therein), all empty fibre cartons and all stadium cartons (without bottles) in Pabst plants, in transit or in trade;
 2. Tempo hop extract in the Pabst plants;
 3. Tempo returnable bottles in Pabst plants or in trade and all other packaging supplies relating to the Blatz Brands in Pabst plants except those in finished goods inventory including without limitation labels, crowns, cans, lids, non-returnable bottles, carriers and corrugated cartons;
 4. All advertising and promotional material and supplies including without limitation point of sale, plexiglass and neon signs, poster paper, decals, road signs, dixie cups, napkins and crested glasses owned by Pabst in Pabst plants or in trade;
 5. Twelve (12) keg and twenty (20) package delivery trucks;
- and

6. Twenty-five thousand (25,000) aluminum half-barrel beer kegs (not bearing the identification of the Blatz Brands) to be randomly selected by Pabst at its Milwaukee plant in proportionate relation to each individual year's purchases remaining in the Pabst asset record for said plant.

G. "Closing date" shall mean September 2, 1969 or such other date as may be fixed by agreement of Pabst and Heileman for the transfer of the business from Pabst to Heileman.

III.

Applicability

The provisions of this Final Judgment applicable to any defendant shall apply to that defendant and its officers, directors, agents, servants, employees, subsidiaries, successors and assigns, and to those persons in active concert or participation with any defendant who receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply to activities or operations outside the United States.

IV.

Divestiture

Pabst is hereby ordered to divest itself of the Blatz business by transferring all of said business to Heileman on the closing date, such transfer to be substantially in accordance with the terms and conditions (1) of the Memorandum of Agreement between Heileman and Pabst filed with and made a portion of this Final Judgment as Exhibit A, including the assumption of liabilities by Heileman as set forth therein; (2) of the letter dated July 14, 1969 to this court and the attorneys for the other parties and prospective purchasers from counsel for Heileman increasing said offer to \$10,750,000 subject to confirmation of financing which was subsequently confirmed in open court and said

contingency thereby eliminated on July 24, 1969 (Tr. 2651-2652, 2667-2671); (3) the testimony of Mr. Roy Kumm, president of Heileman on July 24, 1969 offering to increase the price to be paid to Pabst for any Blatz beer which Pabst is required to produce for Heileman during the year 1970 in accordance with Paragraph 7 of Exhibit A (Tr. 2516-2518), and (4) the statement of Heileman's counsel in open court on July 25, 1969 (Tr. 2838) that Heileman will pay the entire \$10,750,000 on the closing date.

V.

Compliance

For the purpose of securing compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to Pabst, at its Milwaukee, Wisconsin, office, be permitted:

A. Access during the office hours of Pabst, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession of or under the control of Pabst relating to any of the matters contained in this Final Judgment; and

B. Subject to the reasonable convenience of Pabst and without restraint of interference from it, to interview its officers and employees, who may have counsel present, regarding any such matters.

Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to its Milwaukee, Wisconsin, office, Pabst shall submit such written reports under oath, if so requested, with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section V shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VI.

Retention of Jurisdiction to Supervise Transfer -
Denial of Other Relief

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment including Pabst and Heileman to apply to this court at any time for such further orders and directions as may be necessary or appropriate for the preparation and execution of a definitive form of agreement between Pabst and Heileman for the transfer of the Blatz business, for the completion of the transfer of said business, for the construction or carrying out of this Final Judgment, for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof. To the extent not incorporated in this Final Judgment all requests for relief, plans of divestiture, and all motions of any party or of any prospective purchaser relating to the divestiture of the Blatz business be and they are hereby denied. The making and entry of this order shall be without prejudice to such further order or orders as may later be entered pursuant to a final disposition of the former Blatz brewery and adjacent properties.

ENTER this 6th day of August, 1969.

s/ Robert E. Tehan

ROBERT E. TEHAN,

Chief Judge, United States District Court