

1 Raymond P. Hernacki
2 Joseph J. Tabacco
3 Ronald M. Griffith
4 Department of Justice
5 Antitrust Division
6 1444 United States Court House
7 312 North Spring Street
8 Los Angeles, California 90012
9 Telephone: (213) 688-2502

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18 UNITED STATES DISTRICT COURT
19 DISTRICT OF NEVADA

20 UNITED STATES OF AMERICA,)
21)
22 Plaintiff,) Civil No. CIV-LV-76-183 BRT
23)
24 v.) *filed: APR 27 1977*
25)
26 FOREMOST-McKESSON, INC.;)
27 DeLUCA IMPORTING CO., INC.;) *Entered: August 12, 1977*
28 NEVADA BEVERAGE CO.; and)
29 DeLUCA REALTY CORP., INC.,)
30 Defendants.)
31)
32)

33 FINAL JUDGMENT

34 Plaintiff, United States of America, having filed its
35 complaint hereon on September 27, 1976, and defendant Foremost-
36 McKesson, Inc. having filed its answer thereto and plaintiff
37 and defendants by their respective attorneys having consented
38 to the entry of this Final Judgment:

39 NOW THEREFORE, before the taking of any testimony and
40 without trial or adjudication of any issue of fact or law
41 herein and without this Final Judgment constituting any
42 evidence or admission by any party hereto with respect to
43 any such issue and upon consent of the said parties hereto,
44 it is hereby

45 ORDERED, ADJUDGED, AND DECREED as follows:

46 I

47 This Court has jurisdiction of the subject matter hereof

1 and the parties hereto. The complaint states on its face a
2 claim upon which relief may be granted against the defendants
3 under Section 7 of the Clayton Act (15 U.S.C. § 18).

4 II

5 As used in this Final Judgment:

6 (A) "Foremost" shall mean Foremost-McKesson, Inc.;

7 (B) "DeLuca" shall mean DeLuca Importing Co., Inc.,
8 Nevada Beverage Co., and DeLuca Realty Corp., Inc.;

9 (C) "Person" shall mean an individual, partnership,
10 firm, corporation, or any other business or legal entity;

11 (D) "Wholesaler" shall mean a person who engages in
12 the purchase of any alcoholic beverage for resale in its
13 original packaging to retailers;

14 (E) "Supplier" shall mean a manufacturer, distiller,
15 rectifier, wine maker, packager, or distributor who engages
16 in the sale of any alcoholic beverage to wholesalers;

17 (F) "Liquor" shall mean any alcoholic beverage having
18 greater than 22% alcoholic content by volume;

19 (G) "Wine" shall mean any alcoholic beverage, containing
20 up to 22% alcohol by volume, obtained by the fermentation of
21 the natural content of fruits and other agricultural products
22 containing sugar;

23 (H) "Assets" shall mean any tangible or intangible
24 thing of value, personalty or realty owned or controlled by
25 any wholesaler and shall include, without limitation, the
26 willingness of a supplier to sell a particular brand of
27 alcoholic beverage for resale, whether expressed orally or in
28 writing.

29 III

30 The provisions of this Final Judgment applicable to
31 defendants shall apply to each of their directors, officers,
32 employees, agents, affiliates, successors and assigns, and.

1 to all persons in active concert or participation with any of
2 them who receive actual notice of this Final Judgment by per-
3 sonal service or otherwise.

4 VI

5 (A) Foremost is permanently enjoined and restrained from
6 merging with, or consolidating with, or acquiring any of the
7 shares of stock of, or any assets from, DeLuca.

8 (B) Foremost is enjoined and restrained for a period of
9 ten (10) years from the date of the entry of this Final
10 Judgment from merging with, or consolidating with, or acquir-
11 ing any of the shares of stock of, or any assets from, a whole
12 saler of liquor or wine in the State of Nevada without the
13 consent of plaintiff or, if such consent is not given after
14 45 days' notice to plaintiff, without the approval of the
15 Court.

16 (C) Nothing in this Final Judgment shall preclude
17 Foremost from purchasing equipment, products or supplies from
18 any person in the normal course of that person's business.

19 V

20 (A) For the purpose of determining or securing com-
21 pliance with this Final Judgment, and for no other purpose,
22 any duly authorized representative of the Department of
23 Justice shall, upon written request of the Attorney General or
24 the Assistant Attorney General in charge of the Antitrust
25 Division, and on reasonable notice to any defendant made to
26 its principal office, be permitted, subject to any legally
27 recognized privilege:

28 (1) Access, during the office hours of such
29 defendant, to inspect and copy all books, ledgers,
30 accounts, correspondence, memoranda and other records
31 and documents in the possession or under the control
32 of such defendant relating to any matters contained

1 in this Final Judgment; and

2 (2) Subject to the reasonable convenience of
3 such defendant, and without restraint or inter-
4 ference from it, to interview officers, directors,
5 agents, partners or employees of such defendant,
6 who may have counsel present, regarding any such
7 matters.

8 (B) Defendant, upon the written request of the Attorney
9 General or of the Assistant Attorney General in charge of the
10 Antitrust Division, shall submit such reports in writing with
11 respect to any of the matters contained in this Final Judgment
12 as may from time to time be requested.

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

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

32 The Court having entered an order on November 22, 1976,

1 enjoining and restraining the defendants from engaging in
2 certain activities, and the Court and the plaintiff having
3 intended the Order to continue only until the entry of a
4 Final Judgment in this action, including a Final Judgment
5 upon consent of the parties, the Order is hereby dissolved.

6 VI

7 Jurisdiction is retained by this Court for the purpose
8 of enabling any of the parties to this Final Judgment to
9 apply to this Court at any time for such further orders and
10 directions as may be necessary or appropriate for the con-
11 struction or carrying out of this Final Judgment, for the
12 modification of any of the provisions hereof, for the enforce-
13 ment of compliance herewith, and for the punishment of
14 violations hereof.

15 VII

16 Entry of this Final Judgment is in the public interest.

17 Dated: August 12, 1977

18 *Bruce R. Thompson*

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20 UNITED STATES DISTRICT JUDGE
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