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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9 SOUTHERN DIVISION

10 UNITED STATES OF AMERICA, )  
11 )  
12 Plaintiff, ) Civil Action No. 42127  
13 vs. )  
14 JOS. SCHLITZ BREWING COMPANY )  
and GENERAL BREWING COMPANY, ) FINAL JUDGMENT AND DECREE  
15 Defendants. ) *Entered: 3/28/66*  
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17 Plaintiff, United States of America, having filed its  
18 complaint herein on February 19, 1964, defendant Jos. Schlitz  
19 Brewing Company having appeared and filed its answer to the  
20 complaint denying the substantive allegations thereof, and  
21 defendant General Brewing Corporation, sued herein as General  
22 Brewing Company, having appeared and filed its answer thereto  
23 admitting the substantive allegations thereof, the testimony  
24 having been taken at the trial hereof, and the Court having  
25 fully considered the matter, it is hereby

26 ORDERED, ADJUDGED AND DECREED as follows:

27 I

28 (A) This Court has jurisdiction of the subject matter  
29 of this action and the parties hereto pursuant to Section 15  
30 of the Act of Congress of October 15, 1914, as amended (15  
31 U.S.C. Section 25).

32 (B) The acquisition by defendant Jos. Schlitz Brewing

1 Company of the business and assets of Burgermeister Brewing  
2 Corporation, as charged in the complaint herein, constitutes  
3 a violation of Section 7 of the Clayton Act (15 U.S.C. Section  
4 18).

5 (C) The acquisition by said defendant of common capital  
6 stock in John Labatt Limited, as charged in the complaint  
7 herein, constitutes a violation of Section 7 of the Clayton  
8 Act (15 U.S.C. Section 18).

9 II

10 As used in this Final Judgment and Decree:

11 (A) "Person" means any individual, partnership, firm,  
12 corporation, association, trustee or other business or legal  
13 entity.

14 (B) "Schlitz" means defendant Jos. Schlitz Brewing  
15 Company, its successors and assigns.

16 (C) "General Brewing" means defendant General Brewing  
17 Company, its successors and assigns.

18 (D) "Burgermeister" means Burgermeister Brewing Cor-  
19 poration prior to December 31, 1961, a corporation organized  
20 and existing under the laws of the State of California.

21 (E) "Labatt" means John Labatt Limited, a Dominion  
22 Corporation, organized and existing under the laws of the  
23 Dominion of Canada, with its principal office in London,  
24 Ontario, Canada.

25 III

26 This Final Judgment and Decree is binding upon Schlitz  
27 and General Brewing, their respective subsidiaries, affiliates,  
28 directors, officers, agents and employees as well as upon all  
29 other persons who shall have received actual notice of this  
30 Final Judgment and Decree by personal service or otherwise.

31 IV

32 (A) Schlitz is permanently enjoined and restrained from

1 acquiring, holding, or exercising any control over, directly  
2 or indirectly, any shares of stock of any corporation engaged  
3 in the brewing of beer in the State of California or any in-  
4 terest, directly or indirectly, in any brewery facility, plant  
5 or other assets of any person engaged in the brewing of beer  
6 in the State of California.

7 (B) For a period of ten (10) years from the date of  
8 entry of this Final Judgment and Decree, Schlitz is enjoined  
9 and restrained from acquiring, holding or exercising any con-  
10 trol over, directly or indirectly, any shares of stock of any  
11 corporation engaged in the brewing of beer outside of the  
12 State of California or any interest in any brewery facility,  
13 plant or other asset of any person engaged in the brewing of  
14 beer outside of the State of California except (1) with the  
15 prior written consent of the plaintiff herein or (2) if such  
16 consent is refused or withheld, after approval by this Court  
17 upon an affirmative showing by Schlitz that the effect of the  
18 acquisition, holding or control will not be substantially to  
19 lessen competition or to tend to create a monopoly in any line  
20 of commerce in any section of the country.

21 (C) For a period of five (5) years after the date of  
22 entry of this Final Judgment and Decree, General Brewing is  
23 enjoined and restrained from transferring any shares of stock  
24 in General Brewing owned by Labatt, Capital Estates, Inc., or  
25 Lucky Lager Breweries, Ltd., and from selling any brewing fa-  
26 cility or plant owned by General Brewing at the time of entry  
27 of this Final Judgment and Decree except after delivery of  
28 written notice of any such proposed transfer or sale to the  
29 Assistant Attorney General in charge of the Antitrust Division  
30 at least sixty (60) days in advance of the intended effective  
31 date of each such transfer or sale.  
32

(A) Schlitz shall, upon and subject to the terms of this Final Judgment and Decree, divest itself of all of the business and assets of Burgermeister acquired by Schlitz on or about December 31, 1961 and all additional assets or improvements which have since been added thereto by Schlitz (hereinafter all said business, assets, additions and improvements are collectively referred to as "the Burgermeister assets").

(B) (1) Schlitz is ordered and directed to make bona fide, persistent and sustained efforts to divest itself of the Burgermeister assets by sale, to publicize the availability thereof for sale in appropriate trade and financial publications and to promote the expeditious sale thereof. Sale shall be at a price and upon terms approved by this Court which will consider, among other things, the reasonable market value of the Burgermeister assets, the importance of effectuating a prompt sale and the desirability of sale as a going business to a purchaser who will use the Burgermeister assets as a viable competitor in the sale and production of beer.

(2) Schlitz shall render monthly written reports to this Court, with copies to the Assistant Attorney General in charge of the Antitrust Division, detailing its efforts to divest itself of the Burgermeister assets and the results of such efforts. Plaintiff or Schlitz may apply to this Court for approval or disapproval of any proposal for sale by Schlitz of the Burgermeister assets. All parties shall have the right to be heard thereon.

(C) (1) Schlitz shall take such steps as are necessary to maintain the Burgermeister assets until the time of sale thereof at the standard of operating performance applicable thereto during the year preceding entry of this Final Judgment

1 and Decree. Pending such sale, Schlitz shall not permit the  
2 Burgermeister brewery to be diminished in capacity nor turned  
3 to uses other than the production of beer. Schlitz shall  
4 furnish, to all bona fide prospective purchasers of the  
5 Burgermeister assets, information regarding said brewery and  
6 permit them to have such access to, and to make such inspection  
7 of, the Burgermeister assets and records as are reasonably  
8 appropriate.

9 (2) Schlitz is ordered and directed to continue to  
10 use and operate the Burgermeister assets until the time of  
11 sale thereof in substantially the same manner in which they  
12 have been used and operated during the year preceding entry  
13 of this Final Judgment and Decree and to continue the production,  
14 advertising and sale of Burgermeister beer in substantially  
15 the same manner that such production, advertising and  
16 sale has been carried on during that year. Schlitz is ordered  
17 and directed to continue to offer to sell Burgermeister beer  
18 to the distributors who at the time of entry of this Final  
19 Judgment and Decree distribute Burgermeister beer, and to use  
20 its best efforts to retain for the purchaser of the Burger-  
21 meister assets those distributors presently selling Burger-  
22 meister beer.

23 (3) Schlitz shall not increase its sales, if any,  
24 of Old Milwaukee beer to distributors who sell Burgermeister  
25 beer nor its advertising or promotion of Old Milwaukee beer,  
26 if any, for sale in States where Burgermeister beer is sold  
27 until six months after Schlitz has sold the Burgermeister  
28 assets as hereinabove required.

29 VI

30 Schlitz is ordered to divest itself, completely and un-  
31 conditionally, of all of those shares of capital stock it holds  
32 in Labatt to a person or persons satisfactory to the Court.

1 Within ninety (90) days after the date of entry of this Final  
2 Judgment and Decree, Schlitz is ordered to submit to the  
3 Court (with copies to plaintiff and General Brewing) a plan  
4 for the sale of said stock, setting forth to the extent then  
5 known all of the terms and conditions of sale and the identity  
6 of the proposed purchaser or purchasers. Pending the complete  
7 divestiture of said stock, Schlitz is enjoined and restrained  
8 from exercising any dominion or control over said stock,  
9 directly or indirectly.

10 VII

11 (A) For the purpose of securing compliance with this  
12 Final Judgment and Decree and subject to any legally recog-  
13 nized privilege, duly authorized representatives of the  
14 Department of Justice shall, upon written request of the  
15 Attorney General or of the Assistant Attorney General in  
16 charge of the Antitrust Division and on reasonable notice to  
17 defendants at their respective principal offices, be permitted  
18 (1) reasonable access during the office hours of defendants  
19 to all books, ledgers, accounts, correspondence, memoranda  
20 and other records and documents in the possession or under  
21 the control of defendants relating to any of the matters con-  
22 tained in this Final Judgment and Decree; (2) subject to the  
23 reasonable convenience of defendants, and without restraint  
24 or interference, to interview officers, directors, agents and  
25 employees of defendants regarding such matters. All those so  
26 interviewed may have their own counsel present during all such  
27 interviews and shall, prior to interview, be advised of this  
28 provision therefor.

29 (B) Upon written request of the Attorney General or the  
30 Assistant Attorney General in charge of the Antitrust Division,  
31 said defendants shall submit such reports in writing with  
32 respect to the matters contained in this Final Judgment and

1 Decree as may from time to time be necessary for its enforce-  
2 ment.

3 (C) No information obtained by the means permitted in  
4 this Section VII shall be divulged by any representative of  
5 the Department of Justice to any person other than a duly  
6 authorized representative of the Executive Branch of the  
7 plaintiff, except in the course of proceedings in which the  
8 United States is a party for the purpose of securing compli-  
9 ance with this Final Judgment and Decree or as otherwise re-  
10 quired by law.

#### 11 VIII

12 This Court expressly retains full jurisdiction for the  
13 purpose of enabling any of the parties to this Final Judgment  
14 and Decree to apply to this Court at any time for such further  
15 orders and directions as may be necessary or appropriate for  
16 the construction or carrying out of this Final Judgment and  
17 Decree or for the modification or termination of any of the  
18 provisions thereof or for modifications which, consistently  
19 with the purposes thereof, may better comport with sound busi-  
20 ness practices or for making different or additional pro-  
21 visions for the divestiture by Schlitz of the Burgermeister  
22 assets and the Labatt stock if such divestitures have not been  
23 completed with all reasonable dispatch or for modification or  
24 termination of any of the provisions thereof by this Court on  
25 its own motion, and for the enforcement of compliance there-  
26 with and punishment of violations thereof. The retention of  
27 jurisdiction herein provided for shall not be exercised to  
28 relieve Schlitz of its duty, under this Final Judgment and  
29 Decree, to divest itself of the Burgermeister assets and of  
30 its stock in Labatt. No person shall subvert any provision of  
31 this Final Judgment and Decree by indirection or otherwise.  
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IX

Plaintiff's costs shall be taxed against defendant  
Schlitz.

Dated: March 24, 1966.

STANLEY A. WEIGEL

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Judge