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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil Action No. 42127
)	
vs.)	
)	
JOS. SCHLITZ BREWING COMPANY)	
and GENERAL BREWING COMPANY,)	<u>FINAL JUDGMENT AND DECREE</u>
)	
Defendants.)	<i>Entered: 3/28/66</i>

Plaintiff, United States of America, having filed its complaint herein on February 19, 1964, defendant Jos. Schlitz Brewing Company having appeared and filed its answer to the complaint denying the substantive allegations thereof, and defendant General Brewing Corporation, sued herein as General Brewing Company, having appeared and filed its answer thereto admitting the substantive allegations thereof, the testimony having been taken at the trial hereof, and the Court having fully considered the matter, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

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

(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.
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1
2 (A) Schlitz shall, upon and subject to the terms of this
3 Final Judgment and Decree, divest itself of all of the busi-
4 ness and assets of Burgermeister acquired by Schlitz on or
5 about December 31, 1961 and all additional assets or improve-
6 ments which have since been added thereto by Schlitz (herein-
7 after all said business, assets, additions and improvements
8 are collectively referred to as "the Burgermeister assets").

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

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

29 (C) (1) Schlitz shall take such steps as are necessary
30 to maintain the Burgermeister assets until the time of sale
31 thereof at the standard of operating performance applicable
32 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 inspec-
7 tion of, the Burgermeister assets and records as are reason-
8 ably 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 produc-
14 tion, advertising and sale of Burgermeister beer in substan-
15 tially 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

Judge