

APPENDIX A

FINAL JUDGMENTS

(Ordered by Case Listing in the Case Caption)

UNITED STATES v.
IDAHO STATE PHARMACEUTICAL
ASSOCIATION, INC.

Civil Action No. 3654

Year Judgment Entered: 1963



Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Idaho State Pharmaceutical Association, Inc., U.S. District Court, D. Idaho, 1963 Trade Cases ¶70,689, (Apr. 5, 1963)

[Click to open document in a browser](#)

United States v. Idaho State Pharmaceutical Association, Inc.

1963 Trade Cases ¶70,689. U.S. District Court, D. Idaho, Southern Division. Civil Action No. 3654. Entered April 5, 1963.

Sherman Act

Price Fixing—State Pharmaceutical Association—Prescription Drugs—Consent Judgment.—A state pharmaceutical association was prohibited by the terms of a consent judgment from fixing prices for prescription drugs, formulating and distributing prescription pricing schedules, urging members to adhere to prescription pricing schedules, and contacting pharmacists to fix prescription drug prices.

For the plaintiff: Lee Loevinger, Assistant Attorney General, Harry G. Sklarsky, William D. Kilgore, Jr., Lyle L. Jones, Don H. Banks, Gilbert Pavlovsky, Attorneys, Department of Justice, and Sylvan A. Jeppesen, United States Attorney.

For the defendant: Moffatt, Thomas, Barrett and Blanton, by Willis C. Moffatt, for Idaho State Pharmaceutical Association, Inc.

Final Judgment

CLARK, Judge. [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on March 6, 1961, and defendant having appeared through its attorneys, and the parties through their respective attorneys having consented to the entry of this final judgment, without any admission by any party in respect to the facts or issues herein, and without trial or adjudication of any fact or law:

Now, therefore, it is hereby ordered, adjudged and decreed as follows:

I.

[*Sherman Act*]

This court has jurisdiction of the subject matter hereof and of the parties hereto. The amended complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II.

[*Definitions*]

As used herein:

- (a) "Prescription drug" is a medication for treatment of humans, sold to fill a prescription written by a physician or other person duly licensed to prescribe for the treatment of human ailments;
- (b) "Pharmacist" is an individual duly licensed to fill prescriptions written for the treatment of human ailments;
- (c) "Prescription pricing schedule" is a formula or price list designed for use in computing prices to be charged for prescription drugs;
- (d) "Person" is any individual, firm, partnership, corporation, association, trustee or any other business or legal entity.

©2018 CCH Incorporated and its affiliates and licensors. All rights reserved.

Subject to Terms & Conditions: http://researchhelp.cch.com/License_Agreement.htm

III.

[Applicability]

The provisions of this Final Judgment applicable to defendant Idaho State Pharmaceutical Association, Inc. shall apply to such defendant, its officers, directors, agents, members and employees, committees of defendant, and other persons in active concert or participation with said defendant Association who shall receive actual notice of this Final Judgment by personal service or otherwise.

IV.

[Practices Prohibited]

Defendant is hereby perpetually enjoined and restrained from directly or indirectly:

- (a) Entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan or program (i) to fix, determine, maintain or suggest prices or other items or conditions for the sale of prescription drugs, (ii) to formulate, adopt, issue, distribute, recommend or suggest the use by any pharmacist or any other person of any prescription pricing schedule or other list, formula, guide, schedule, or method for pricing prescription drugs;
- (b) Advocating, suggesting, urging, inducing, compelling, or in any other manner influencing or attempting to influence any person to use or adhere to any prescription pricing schedule or schedules or any other list, formula, guide, schedule or method for pricing prescription drugs;
- (c) Policing or making individual contact with any pharmacist or other person or devising or putting into effect any procedure to ascertain, determine, fix, influence, or suggest the price at which any prescription drug is or may be sold by any pharmacist

[Permissive Provisions]

Nothing in this section IV shall be construed to restrain any pharmacy owner member of defendant Association from requiring his employees to sell prescription drugs at prices, and upon terms and conditions of sale, established by such pharmacy owner in pharmacies owned or operated by said pharmacy owner.

At any time, any agency of the United States or of the State of Idaho may, upon grounds of undue hardship to it, and without having standing as a party herein, petition this court for an order enabling defendant Association to negotiate and enter into a contract for the sale of prescription drugs where the price of such prescription drugs will be paid for by the petitioning agency. Such petition may be in the form of a letter to the court with copies to be served on both the plaintiff and the defendant herein. The matter will then be set for hearing at which time the petitioning agency may produce witnesses and other evidence in support of its petition. Plaintiff and defendant will be permitted to be heard and make objections to any such proposed negotiation or contract. Permission by this court to enter into any such contract shall not be considered an adjudication as to the legality or illegality of such contract under the antitrust laws, nor shall it be deemed to bar or estop the plaintiff from attacking the legality of any such contract under the antitrust laws generally.

V.

[Compliance]

- (a) Defendant Association is ordered and directed, within 30 days after the entry of this Final Judgment, to serve by mail upon each of its members a conformed copy of this Final Judgment. Said defendant is further ordered and directed to thereupon file an affidavit with the clerk of this court that it has done so, which affidavit shall set forth the name and address of each person so served;
- (b) Defendant Association is ordered and directed to furnish a copy of this Final Judgment to each new member thereof at the time of acceptance of such membership and to obtain from each such member, and keep for ten years in its files, a receipt therefor signed by each such new member.

VI.

[Inspection]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, and subject to any legally recognized privilege, be permitted:

- (a) Reasonable access during the office hours of defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant relating to any matters contained in this Final Judgment; and
- (b) Subject to the reasonable convenience of the defendant, and without restraint or interference from it, to interview officers and employees of defendant (who may have counsel present) regarding such matters.

VII.

[Jurisdiction Retained]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of the Final Judgment, for the modification or vacating of any of the provisions thereof, and for the enforcement of compliance therewith and the punishment of violation thereof.

UNITED STATES v.
MONROC, INC., *et al.*

Civil Action No. 1-75-176

Year Judgment Entered: 1977

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,
Plaintiff,
v.
MONROC, INC.;
IDAHO CONCRETE PIPE COMPANY,
INC.; and
FLYNN SAND & GRAVEL, INC.,
Defendants.

Civil No. 1-75-176

filed NOV 19 1976

FINAL JUDGMENT

Entered: March 15, 1977

Plaintiff, United States of America, having filed its Complaint herein on October 16, 1975, and plaintiff and defendants by their respective attorneys having each consented to the entry of this Final Judgment without trial or adjudication of or finding on any issues of fact or law herein, and without this Final Judgment constituting evidence or admission by plaintiff or defendants, or any of them, in respect to any such issue;

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

1 ORDERED, ADJUDGED and DECREED as follows:

2 I

3 This Court has jurisdiction of the subject matter
4 hereof and of the parties hereto. The Complaint states
5 a claim upon which relief may be granted against the
6 defendants under Section 1 of the Act of Congress of
7 July 2, 1890, commonly known as the Sherman Act, as amended
8 (15 U.S.C. §1).

9 II

10 As used in this Final Judgment:

- 11 (A) "Person" shall mean any individual, corporation,
12 partnership, firm, association or other business
13 or legal entity;
- 14 (B) "Ready-mix concrete" means a building material
15 consisting of a mixture of cement, mineral aggregate
16 (gravel and sand), water and other ingredients mixed
17 in varying proportions and sold to customers in a
18 plastic and unhardened state;
- 19 (C) "Nyssa-Ontario market" refers to the cities of Nyssa
20 and Ontario, Oregon and surrounding areas in the
21 States of Oregon and Idaho served by the defendant
22 corporations from their plants located in said cities.

23 III

24 The provisions of this Final Judgment are applicable
25 to each defendant herein and shall apply also to each of
26 such defendant's officers, directors, partners, agents,
27 employees, subsidiaries, successors and assigns, and to
28 all other persons in active concert or participation with
29 any of them, who shall have received actual notice of
30 this Final Judgment by personal service or otherwise.
31
32

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining, furthering, enforcing or claiming any right under any contract, agreement, understanding, plan or program with any other person directly or indirectly to:

- (A) Fix, determine, establish, maintain, raise, stabilize, or adhere to prices, discounts or other terms or conditions for the sale of ready-mix concrete to any third person;
- (B) Submit collusive, rigged or noncompetitive bids or quotations for the sale of ready-mix concrete;
- (C) Fix, determine, establish, maintain, raise, stabilize, or adhere to any charge for the delivery of ready-mix concrete;
- (D) Communicate to or exchange with any other person selling ready-mix concrete any information concerning any actual or proposed price, price change, discount, delivery charge, or other term or condition of sale at which ready-mix concrete is to be, or has been, sold to any third person, prior to the communication of such information to the public generally.

V

- (A) Each defendant shall independently and individually review and recompute its current prices, discounts, delivery charges and all other terms and conditions for the sale of ready-mix concrete in the Nyssa-Ontario market.
- (B) Each defendant shall reduce to writing the results of the independent review and recomputation required by Paragraph (A) of this Section. This written

review shall include but not be limited to:

- (1) a full explanation of the methodology employed by the defendant in reviewing and recomputing its prices, discounts, delivery charges and other terms and conditions of sale;
- (2) a full explanation of the accounting method used by the defendant as part of its independent review and recomputation;
- (3) a full explanation of each of the constituent factors determining the prices, discounts, delivery charges, and other terms and conditions for the sale of ready-mix concrete sold by the defendant;
- (4) the prices, discounts, delivery charges and other terms and conditions for the sale of ready-mix concrete sold by the defendant before and after the independent review and recomputation.

(C) The written results of the independent review and recomputation required by Paragraph (B) of this Section shall be submitted to the plaintiff at the offices of the Antitrust Division, U. S. Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102, within ninety (90) days after the entry of this Final Judgment.

VI

Each defendant is ordered and directed to:

- (A) Serve within sixty (60) days after the entry of this Final Judgment a copy of this Final Judgment upon each of its officers, directors, and/or partners, and upon each of its employees and agents who have any responsibility for the sale of ready-mix concrete;

- 1 (B) Serve a copy of this Final Judgment upon each successor
2 to such officers, directors, partners, employees or
3 agents described in Paragraph (A) of this Section,
4 within sixty (60) days after such successor becomes
5 employed or associated with such defendant;
- 6 (C) Within ninety (90) days after the entry of this Final
7 Judgment, to file with the Court and to serve upon the
8 plaintiff affidavits concerning the fact and manner
9 of compliance with Paragraph (A) of this Section;
- 10 (D) Obtain, from each officer, director, partner, employee
11 and agent served with a copy of this Final Judgment
12 pursuant to Paragraph (A) of this Section, and from
13 each successor to each such officer, director, partner,
14 employee and agent served with a copy of this Final
15 Judgment pursuant to Paragraph (B) of this Section,
16 a written statement evidencing each such person's
17 receipt of a copy of this Final Judgment, and to
18 retain such statements in its files.

19 VII

20 Upon motion of the plaintiff or upon this Court's own
21 motion, responsible officials of each defendant may, from
22 time to time, be ordered to appear before this Court to
23 give sworn testimony relating to each such defendant's
24 manner of compliance with the provisions of this Final
25 Judgment.

26 VIII

- 27 (A) For the purpose of determining or securing compliance
28 with this Final Judgment, and for no other purpose,
29 defendants shall permit duly authorized representatives
30 of the Department of Justice, on written request of
31 the Attorney General or the Assistant Attorney General
32

1 in charge of the Antitrust Division, and on reasonable
2 notice, subject to any legally recognized privilege:

- 3 (1) Access, during the business hours of defendants,
4 who may have counsel present, to those books,
5 ledgers, accounts, correspondence, memoranda and
6 other records and documents in the possession or
7 under the control of defendants which relate to
8 any matters contained in this Final Judgment;
9 (2) Subject to the reasonable convenience of defendants
10 and without restraint or interference from them,
11 to interview individuals who are officers or
12 employees of defendants, any of whom may have
13 counsel present, regarding any matters contained
14 in this Final Judgment.

15 (B) For the purpose of determining or securing compliance
16 with this Final Judgment, and for no other purpose,
17 upon written request of the Attorney General or the
18 Assistant Attorney General in charge of the Antitrust
19 Division, defendants shall submit such reports, in
20 writing, with respect to the matters contained in this
21 Final Judgment as may from time to time be requested.

22 (C) No information obtained by the means provided in this
23 Section of this Final Judgment shall be divulged by
24 a representative of the Department of Justice to any
25 person other than a duly authorized representative
26 of the Executive Branch of the plaintiff, except in
27 the course of legal proceedings to which the United
28 States is a party, or for the purpose of securing
29 compliance with this Final Judgment, or as otherwise
30 required by law.
31
32

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X

Entry of this Final Judgment is in the public interest.

Dated: March 15, 1977

/s/ MARION J. CALLISTER
UNITED STATES DISTRICT JUDGE

UNITED STATES v.
MORRISON-KNUDSEN
COMPANY, INC., *et al.*

Civil Action No. 1-75-177

Year Judgment Entered: 1977



UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

MORRISON-KNUDSEN COMPANY, INC.;
MONROC, INC.;
IDAHO CONCRETE PIPE COMPANY,
INC.; CONSOLIDATED CONCRETE
COMPANY, INC.; G & B READY MIX,
a partnership; CLEMENTS
CONCRETE COMPANY; and
A-A REDI-MIX, INC.,

Defendants.

Civil No. 1-75-177

filed: NOV 19 1976

FINAL JUDGMENT

Entered: March 15, 1977

Plaintiff, United States of America, having filed its Complaint herein on October 16, 1975, and plaintiff and defendants by their respective attorneys having each consented to the entry of this Final Judgment without trial or adjudication of or finding on any issues of fact or law herein, and without this Final Judgment constituting evidence or admission by plaintiff or defendants, or any of them, in respect to any such issue;

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

1 ORDERED, ADJUDGED and DECREED as follows:

2 I

3 This Court has jurisdiction of the subject matter
4 hereof and of the parties hereto. The Complaint states
5 a claim upon which relief may be granted against the
6 defendants under Section 1 of the Act of Congress of
7 July 2, 1890, commonly known as the Sherman Act, as amended
8 (15 U.S.C. §1).

9 II

10 As used in this Final Judgment:

- 11 (A) "Person" shall mean any individual, corporation,
12 partnership, firm, association or other business
13 or legal entity;
- 14 (B) "Ready-mix concrete" means a building material
15 consisting of a mixture of cement, mineral aggregate
16 (gravel and sand), water and other ingredients mixed
17 in varying proportions and sold to customers in a
18 plastic and unhardened state;
- 19 (C) "Boise Valley market" refers to that section of the
20 southwestern part of the State of Idaho, which
21 encompasses the cities of Boise, Caldwell, Nampa,
22 and the area surrounding such cities served by
23 defendants from their plants located in or near
24 said cities.

25 III

26 The provisions of this Final Judgment are applicable
27 to each defendant herein and shall apply also to each of
28 such defendant's officers, directors, partners, agents,
29 employees, subsidiaries, successors and assigns, and to
30 all other persons in active concert or participation with
31 any of them, who shall have received actual notice of this
32 Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining, furthering, enforcing or claiming any right under any contract, agreement, understanding, plan or program with any other person directly or indirectly to:

- (A) Fix, determine, establish, maintain, raise, stabilize, or adhere to prices, discounts or other terms or conditions for the sale of ready-mix concrete to any third person;
- (B) Submit collusive, rigged or noncompetitive bids or quotations for the sale of ready-mix concrete;
- (C) Fix, determine, establish, maintain, raise, stabilize, or adhere to any charge for the delivery of ready-mix concrete;
- (D) Communicate to or exchange with any other person selling ready-mix concrete any information concerning any actual or proposed price, price change, discount, delivery charge, or other term or condition of sale at which ready-mix concrete is to be, or has been, sold to any third person, prior to the communication of such information to the public generally.

V

- (A) Each defendant shall independently and individually review and recompute its current prices, discounts, delivery charges and all other terms and conditions for the sale of ready-mix concrete in the Boise Valley market.
- (B) Each defendant shall reduce to writing the results of the independent review and recomputation required by Paragraph (A) of this Section. This written

review shall include but not be limited to:

- (1) a full explanation of the methodology employed by the defendant in reviewing and recomputing its prices, discounts, delivery charges and other terms and conditions of sale;
- (2) a full explanation of the accounting method used by the defendant as part of its independent review and recomputation;
- (3) a full explanation of each of the constituent factors determining the prices, discounts, delivery charges, and other terms and conditions for the sale of ready-mix concrete sold by the defendant;
- (4) the prices, discounts, delivery charges and other terms and conditions for the sale of ready-mix concrete sold by the defendant before and after the independent review and recomputation.

(C) The written results of the independent review and recomputation required by Paragraph (B) of this Section shall be submitted to the plaintiff at the offices of the Antitrust Division, U. S. Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102, within ninety (90) days after the entry of this Final Judgment.

VI

Each defendant is ordered and directed to:

- (A) Serve within sixty (60) days after the entry of this Final Judgment a copy of this Final Judgment upon each of its officers, directors, and/or partners, and upon each of its employees and agents who have any responsibility for the sale of ready-mix concrete;

- 1 (B) Serve a copy of this Final Judgment upon each successor
2 to such officers, directors, partners, employees or
3 agents described in Paragraph (A) of this Section,
4 within sixty (60) days after such successor becomes
5 employed or associated with such defendant;
- 6 (C) Within ninety (90) days after the entry of this Final
7 Judgment, to file with the Court and to serve upon the
8 plaintiff affidavits concerning the fact and manner
9 of compliance with Paragraph (A) of this Section;
- 10 (D) Obtain, from each officer, director, partner, employee
11 and agent served with a copy of this Final Judgment
12 pursuant to Paragraph (A) of this Section, and from
13 each successor to each such officer, director, partner,
14 employee and agent served with a copy of this Final
15 Judgment pursuant to Paragraph (B) of this Section,
16 a written statement evidencing each such person's
17 receipt of a copy of this Final Judgment, and to retain
18 such statements in its files.

19 VII

20 Upon motion of the plaintiff or upon this Court's own
21 motion, responsible officials of each defendant may, from
22 time to time, be ordered to appear before this Court to
23 give sworn testimony relating to each such defendant's
24 manner of compliance with the provisions of this Final
25 Judgment.

26 VIII

- 27 (A) For the purpose of determining or securing compliance
28 with this Final Judgment, and for no other purpose,
29 defendants shall permit duly authorized representatives
30 of the Department of Justice, on written request of
31 the Attorney General or the Assistant Attorney General
32

1 in charge of the Antitrust Division, and on reasonable
2 notice, subject to any legally recognized privilege:

3 (1) Access, during the business hours of defendants,
4 who may have counsel present, to those books,
5 ledgers, accounts, correspondence, memoranda and
6 other records and documents in the possession or
7 under the control of defendants which relate to
8 any matters contained in this Final Judgment;

9 (2) Subject to the reasonable convenience of defendants
10 and without restraint or interference from them,
11 to interview individuals who are officers or
12 employees of defendants, any of whom may have
13 counsel present, regarding any matters contained
14 in this Final Judgment.

15 (B) For the purpose of determining or securing compliance
16 with this Final Judgment, and for no other purpose,
17 upon written request of the Attorney General or the
18 Assistant Attorney General in charge of the Antitrust
19 Division, defendants shall submit such reports, in
20 writing, with respect to the matters contained in this
21 Final Judgment as may from time to time be requested.

22 (C) No information obtained by the means provided in this
23 Section of this Final Judgment shall be divulged by
24 a representative of the Department of Justice to any
25 person other than a duly authorized representative
26 of the Executive Branch of the plaintiff, except in
27 the course of legal proceedings to which the United
28 States is a party, or for the purpose of securing
29 compliance with this Final Judgment, or as otherwise
30 required by law.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X

Entry of this Final Judgment is in the public interest.

Dated: March 15, 1977

/s/ MARION J. CALLISTER
UNITED STATES DISTRICT JUDGE

UNITED STATES v.
ALBERTSON'S, INC., *et al.*

Civil Action No. 1-74-66

Year Judgment Entered: 1977



U. S. DISTRICT COURT
DISTRICT OF IDAHO
Filed at 4:15 PM
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 Eisenhower, 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

4
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: 
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

| | | |
|---------------------------|---|--------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | Civil Action No. 1-74-66 |
| |) | |
| v. |) | |
| |) | |
| ALBERTSON'S, INC., ET AL. |) | |
| |) | |
| 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-

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

3 IX

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

5 DATED: *April 26, 1977.*

6
7
8 *Raymond McMichael*
9 United States District Judge
10 *F.M.J.*