

File

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

Plaintiff, :

v. : Civil Action No. 0049

CHARMER INDUSTRIES, INC.; :

STAR INDUSTRIES, INC.; :

PEERLESS IMPORTERS, INC.; : Filed: January 6, 1981

CAPITOL DISTRIBUTORS CORP.; :

KNICKERBOCKER LIQUORS CORPORATION; :

and :

STANDARD WINE & LIQUOR CO., INC., :

Defendants. :

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COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action to obtain equitable relief against the defendants named herein and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 4 of the Sherman Act (15 U.S.C. §4), in order to prevent and restrain the continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. §1).

2. Each of the defendants is found and transacts business within the Eastern District of New York.

II

DEFENDANTS

3. The corporations named below are made defendants herein. Each is organized and exists under the laws of the State of New York and has its principal place of business in the city indicated below.

<u>Name of Corporation</u>	<u>Principal Place of Business</u>
Charmer Industries, Inc.	Queens, New York
Star Industries, Inc.	Syosset, New York
Peerless Importers, Inc.	Brooklyn, New York
Capitol Distributors Corp.	Queens, New York
Knickerbocker Liquors Corporation	Syosset, New York
Standard Wine & Liquor Co., Inc.	Queens, New York

During all or part of the period of time covered by this complaint, each defendant was engaged in the distribution and sale of liquor and wine in Metropolitan New York.

III

CO-CONSPIRATORS

4. Various persons, not made defendants in this complaint, participated as co-conspirators in the violation alleged herein and performed acts and made statements in furtherance thereof.

IV

DEFINITIONS

5. As used herein, the term:

- (a) "person" means any individual, partnership, corporation or other legal or business entity; and
- (b) "Metropolitan New York" means the area consisting of the City of New York and the Counties of Nassau, Suffolk and Westchester in the State of New York.

V

TRADE AND COMMERCE

6. The defendants are the six major wholesale distributors of liquor and wine in Metropolitan New York. They purchase liquor and wine from suppliers for resale to

retail liquor and wine stores, taverns, restaurants, hotels, clubs and caterers. Their combined annual dollar sales of liquor and wine in 1979 were over \$700 million.

7. Virtually all of the liquor and the overwhelming majority of the wine purchased for resale by the defendants and distributed by them in Metropolitan New York is produced in states other than the State of New York and in foreign countries. Such liquor and wine is regularly shipped from such states and foreign countries to the defendants in the State of New York and from them to their respective customers in a continuous and uninterrupted flow of interstate and foreign commerce.

8. The activities of the defendants and co-conspirators, as described herein, are within the flow of interstate and foreign commerce and substantially affect interstate and foreign commerce.

VI

VIOLATION ALLEGED

9. Since sometime in late 1978, and continuing thereafter until at least July 1979, the exact dates being unknown to the plaintiff, the defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. This violation may continue or recur unless the relief hereinafter prayed for is granted.

10. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding and concert of action among the defendants and co-conspirators, the substantial terms of which have been:

- (a) to raise and fix prices of liquor; and
- (b) to reduce discounts on liquor and wine.

11. For the purpose of forming and effectuating the combination and conspiracy alleged in the complaint, the defendants and co-conspirators did those things which they combined and conspired to do.

VII

EFFECTS

The aforesaid combination and conspiracy has had the following effects among others:

- (a) price competition among the defendants has been restrained;
- (b) liquor and wine prices have been fixed at non-competitive levels; and
- (c) customers of the defendants and co-conspirators have been deprived of the opportunity to purchase liquor and wine at competitive prices.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the Court adjudge and decree that the defendants have engaged in an unlawful combination and conspiracy in unreasonable restraint of interstate and foreign trade and commerce, in violation of Section 1 of the Sherman Act.

2. That each of the defendants, its subsidiaries, successors, assigns, transferees, and the respective officers, directors, agents, and employees thereof, and all other persons acting or claiming to act on their behalf, be permanently enjoined from directly or indirectly:

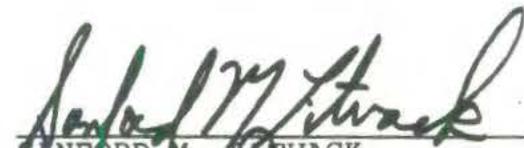
- (a) continuing, maintaining, or renewing the aforesaid combination and conspiracy or from engaging in any other combination and conspiracy having a similar purpose or effect, or from adopting or following any practice, plan, program, or device having a similar purpose or effect; and

(b) communicating any information concerning prices, discounts, or terms or conditions of sale of liquor or wine to any other person engaged in the wholesale distribution or sale of liquor or wine.

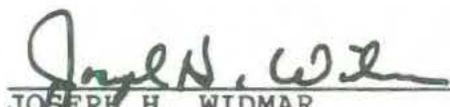
3. That the Court order each defendant periodically to advise each of its officers, directors and employees of the provisions of any judgment entered by this Court, and of its and their duties and obligations under that judgment and under the antitrust laws, and to file with the Court and with the plaintiff reports setting forth the steps each defendant has taken to comply with that judgment.

4. That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

5. That the plaintiff recover the costs of this suit.


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