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7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF TEXAS
10 WACO DIVISION

11
12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 COLLEY ENTERPRISES, INC.
d/b/a/ TRIANGLE PACKAGE STORE;
16 JABO'S CENTENNIAL PACKAGE STORE, INC.;
J and J LIQUOR STORE;
17 THE SCOTCHMAN, INC., d/b/a
THE SCOTCHMAN and THE OASIS;
18 WAREHOUSE CUT RATE STORES, INC.;
BILLY DICORTE, d/b/a
19 DICORTE LIQUOR STORE;
JOHNNIE M. FADAL, d/b/a
20 FADAL'S CUT RATE LIQUOR STORE; and
21 J. B. ZELLER, d/b/a J. B. ZELLER'S
SILVER DOLLAR and J. B. ZELLER'S
SILVER DOLLAR No. 2,

22 Defendants.

Civil No. W-72-CA-44

Filed: June 28, 1972

(Equitable Relief Sought)

Complaint Involving Sherman
Act Violations, 15 U.S.C.
§§ 1 and 4

23
24 COMPLAINT

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

29 I

30 JURISDICTION AND VENUE

31 1. This complaint is filed and this action is instituted
32 under Section 4 of the Act of Congress of July 2, 1890, as amended

1 (15 U.S.C. § 4), commonly known as the Sherman Act, in order to
2 prevent and restrain the continuing violation by the above-named
3 defendants, as hereinafter alleged, of Section 1 of said Act
4 (15 U.S.C. § 1).

5 2. Defendants transact business and are found within the
6 Western District of Texas, Waco Division.

7 II

8 DEFINITIONS

9 3. As used herein:

- 10 (a) "Liquor" refers to any and all types of alcoholic
11 beverages, including beer and wine, regardless of
12 the form in which the beverage is packaged;
- 13 (b) "Liquor dealers" refers to persons who own and/or
14 operate the business establishments which sell
15 liquor at the retail level for public consumption;
- 16 (c) "Liquor stores" refers to business establishments
17 which sell liquor at the retail level for public
18 consumption;
- 19 (d) "Waco area" is comprised of the City of Waco,
20 McLennan County, Texas, and all of the surround-
21 ing cities, incorporated or unincorporated, within
22 McLennan County;
- 23 (e) "Lacy-Lakeview" refers to the incorporated area
24 contiguous to the northern boundary of the City
25 of Waco, McLennan County, Texas.

26 III

27 THE DEFENDANTS

28 4. Colley Enterprises, Inc., d/b/a Triangle Package Store
29 (hereinafter referred to as "Triangle") is hereby made a defendant
30 in this action. During part of the period covered by this
31 complaint Triangle has been a liquor store located at 701 South
32 Lacy Drive, Waco, Texas.

1 5. Jabo's Centennial Package Store, Inc. (hereinafter
2 referred to as "Jabo's") is hereby made a defendant in this
3 action. During the period covered by this complaint Jabo's has
4 been a liquor store located at 930 South Lacy Drive, Waco, Texas.

5 6. J and J Liquor Store (hereinafter referred to as "J and
6 J") is hereby made a defendant in this action. J and J is a
7 partnership created under the laws of the State of Texas, and
8 during part of the period covered by this complaint has been a
9 liquor store located at 417 New Dallas Highway, Waco, Texas.

10 7. The Scotchman, Inc., d/b/a The Scotchman and The Oasis
11 (hereinafter referred to as "Scotchman" and "~~Oasis's~~") is hereby
12 made a defendant in this action. During the period covered by
13 this complaint the Scotchman has been a liquor store located at
14 1003 South Lacy Drive, Waco, Texas. During part of the period
15 covered by this complaint the Oasis has been a liquor store
16 located at 1003 South Lacy Drive, Waco, Texas.

17 8. Warehouse Cut Rate Stores, Inc. (hereinafter referred
18 to as "Warehouse") is hereby made a defendant in this action.
19 Warehouse is a Texas corporation, with its principal place of
20 business in Dallas, Texas. During the period covered by this
21 complaint, Warehouse has owned and operated a liquor store
22 located at 962 South Lacy-Lakeview, Waco, Texas.

23 9. Billy Dicorte, d/b/a Dicorte Liquor Store (hereinafter
24 referred to as "Dicorte's") is hereby made a defendant in this
25 action. During the period covered by this complaint Dicorte's
26 has been a liquor store located at 715 South Highway 81, Waco,
27 Texas.

28 10. Johnnie M. Fadal, d/b/a Fadal's Cut Rate Liquor Store
29 (hereinafter referred to as "Fadal's") is hereby made a defendant
30 in this action. During the period covered by this complaint
31 Fadal's has been a liquor store located at 801 New Dallas Highway,
32 Waco, Texas.

1 11. J. B. Zeller, d/b/a J. B. Zeller's Silver Dollar and
2 J. B. Zeller's Silver Dollar No. 2, is hereby made a defendant
3 in this action. During the period covered by this complaint,
4 J. B. Zeller's Silver Dollar has been a liquor store located at
5 729 South Highway 81, Waco, Texas. During part of the period
6 covered by this complaint, J. B. Zeller's Silver Dollar No. 2
7 has been a liquor store located at 105 East Industrial, Waco,
8 Texas.

9 IV

10 CO-CONSPIRATORS

11 12. Various other corporations, firms, and persons not made
12 **defendants** in this action have combined with defendants in the
13 violation hereinafter alleged and have performed acts and made
14 statements in furtherance thereof.

15 V

16 TRADE AND COMMERCE

17 13. Texas law provides that each incorporated political
18 subdivision shall decide for itself, in an appropriate election,
19 whether, and the manner in which, liquor shall be sold at retail.

20 14. All liquor and wine sold at the wholesale and retail
21 levels within the State of Texas is processed and bottled out of
22 the state and progresses to wholesalers through interstate commerce.
23 It is subsequently sold to retailers and resold to consumers.
24 Some beer is processed and bottled in Texas. This amount, however,
25 is slight compared with the total amount of liquor sold annually
26 within the State of Texas.

27 15. Liquor stores in the Waco area are located in Lacy-
28 Lakeview. There are fourteen such stores. The retail sale of
29 liquor has been permitted in Lacy-Lakeview since at least 1960
30 and has continued up to and including the date of the filing of
31 this complaint.

32 16. The named defendant liquor stores are the major liquor

1 stores in the Waco area. The combined dollar sales of all liquor
2 stores in Lacy-Lakeview are approximately \$8 million annually.

3 VI

4 OFFENSE ALLEGED

5 17. Beginning at least as early as 1960, and continuing
6 thereafter up to and including the date of the filing of this
7 complaint, the defendants and co-conspirators have engaged in a
8 combination and conspiracy in unreasonable restraint of the afore-
9 said trade and commerce in violation of Section 1 of the Sherman
10 Act.

11 18. The aforesaid combination and conspiracy has consisted
12 of a continuing agreement, understanding, and concert of action
13 among the defendants and co-conspirators to fix, maintain, and
14 stabilize retail prices for liquor in the Waco area.

15 19. The aforesaid combination and conspiracy is continuing
16 and will continue unless the relief hereinafter prayed for is
17 granted.

18 VII

19 EFFECTS

20 20. The aforesaid combination and conspiracy has had the
21 following effects, among others:

- 22 (a) Competition between and among the defendant and
23 co-conspirator liquor dealers has been restricted
24 and suppressed;
- 25 (b) Retail prices for liquor in the Waco area have
26 been artificially fixed, maintained, and stabilized;
- 27 (c) Consumers of liquor in the Waco area have been
28 deprived of the opportunity to purchase liquor
29 in a free and competitive market.

30 PRAYER

31 WHEREFORE, the plaintiff prays:

- 32 1. That the aforesaid combination and conspiracy to fix,

1 maintain, and stabilize prices for liquor be adjudged and decreed
2 to be in violation of Section 1 of the Sherman Act (15 U.S.C.
3 § 1).

4 2. That each of the defendants, their successors, assignees,
5 subsidiaries and transferees, and the respective officers,
6 directors, agents, and employees thereof, and all other persons
7 acting or claiming to act on behalf of said defendants, be
8 perpetually enjoined and restrained from, in any manner, directly
9 or indirectly:

10 (a) Continuing, maintaining, or renewing the afore-
11 said combination and conspiracy, and from engaging
12 in any other combinations, conspiracies, agree-
13 ments, understandings, or concert of action having
14 similar purposes or effects and from adopting or
15 following any practice, plan, program, or device
16 having similar purposes or effects;

17 (b) Entering into any agreement, arrangement, concerted
18 activity, or understanding with any other liquor
19 dealer to:

- 20 (1) Fix or adopt prices;
21 (2) Maintain or stabilize prices; and
22 (3) Exchange information concerning prices.

23 3. That plaintiff have such other and further relief as the
24 Court may deem just and proper.
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4. That plaintiff recover the costs of this suit.

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