

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U. S. Dist. Court East Dist. Wis.

FILED

OCT 16 1974

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) CIVIL ACTION at _____ o'clock _____ AM
PABST BREWING CO.,) No. 59 C 215
SCHENLEY INDUSTRIES, INC.,)
and THE VAL CORP.,)
Defendants.)
RUTH W. LA FAYE, Clerk

ORDER VACATING PORTION OF FINAL JUDGMENT ENTERED
FEBRUARY 11, 1971

On February 11, 1971 this Court entered its Final Judgment in this proceeding. Section V(A) of the Final Judgment directed Pabst "to make a bona fide effort to divest itself of the Blatz brewery as a brewery." Section V(B) of the Final Judgment stated that "if Pabst has not divested itself of the Blatz brewery by sale as a brewery within three years" after February 11, 1971, then "upon application to this Court by Pabst, and a showing by Pabst to the satisfaction of the Court of its bona fide efforts to sell the Blatz brewery, and that there is no reasonable expectation that the Blatz brewery can be sold as a brewery within a reasonable additional period of time, the order to sell the Blatz brewery and all other provisions of Section V(A) of this Final Judgment shall be cancelled and Pabst shall not be subject to any further order in this action to divest itself of the Blatz brewery."

More than three years have now passed since entry of the Final Judgment on February 11, 1971 and Pabst has now made application to this Court for the cancellation of Section V(A) of the Final Judgment. The application is in the form of a motion presented by Pabst to which are attached the following materials which support the application: memorandum of Pabst counsel dated May 9, 1974;

copies of letters to this Court from Charles B. Olds, Secretary of Pabst, dated May 10, 1974 and August 9, 1974; and affidavit of Robert E. Spiller subscribed and sworn to on July 18, 1974.

With respect to the aforesaid application the Court finds as follows:

1. Pabst has publicized and promoted the availability of the Blatz brewery for sale as a brewery in appropriate trade and financial publications including the Wall Street Journal and the following brewing industry publications: The Brewers' Bulletin, The Brewers' Digest and Modern Brewery Age. In the period from the date of entry of the Final Judgment herein, February 11, 1971, through August 11, 1974, appropriate advertisements were published a total of 65 times in the specified publications.

2. In the period from February 11, 1971 through August 9, 1974 Pabst received about 138 written or oral inquiries from individuals or organizations relating to the sale of the brewery. In each case where appropriate Pabst responded with a letter generally describing the conditions of sale and assets available for sale.

3. Since February 11, 1971 Pabst has held the Blatz brewery premises available for inspection, but only one request for inspection was received, and it was honored.

4. Pabst has not received any offer to purchase the Blatz brewery as a brewery.

5. Pabst has reported to the Court, by letter, at three month intervals of its compliance with Section V(A) of the Final Judgment. Such letters have been filed quarterly beginning with the letter dated May 11, 1971.

6. The Court expressly finds that Pabst has fully complied with that portion of the Final Judgment directing it "to make a

bona fide effort to divest itself of the Blatz brewery as a brewery."

7. The Court further finds, on the basis of the foregoing and the affidavit of Robert E. Spiller referred to above, that there is no reasonable expectation that the Blatz brewery can be sold as a brewery within a reasonable additional period of time.

Therefore, the Court having fully considered the matter, including the material referred to above, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

Section V(A) of the Final Judgment of this Court dated February 11, 1971 is hereby cancelled and shall hereafter be of no further force and effect and Pabst shall not be subject to any further order in this action to divest itself of the Blatz brewery. Except as provided in this order, the Court's Final Judgment of February 11, 1971 shall remain in effect.

ENTER:

Robert E. Zehn

Dated: October 9th, 1974

We agree to entry of the foregoing order:

U. S. District Court
Eastern District of Wisconsin
of the State of Wisconsin
true and correct copy of the foregoing
now being filed in the office of the Clerk
my office on 10-9-74
RUTH W. LA PINE, Clerk

Francis C. Hayt
Attorney for Plaintiff,
United States of America

James A. Mc Kee
Attorney for Defendant,
Pabst Brewing Company

DATED:

10-11-74

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Deputy