

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 9157
)	
CONNECTICUT PACKAGE STORES ASSOCIATION,)	ENTERED: June 4, 1963
INC. and NEW HAVEN PACKAGE STORES)	
ASSOCIATION,)	
)	
Defendants.)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on January 30, 1962, each of the defendants having appeared and having filed its answer denying the substantive allegations of said complaint, and the plaintiff and each of the defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence or admission by any party with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the plaintiff and each defendant, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I.

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a cause of action against the defendants, and each of them, upon which relief may be granted, 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.

As used in this Final Judgment:

(A) "Alcoholic beverages" shall mean any alcohol, brandy, whiskey, rum, gin, cordial, wine, cider and any other spiritous, vinous, malt, or fermented liquor, liquid or compound, by whatever name called, containing one-half of one percentum or more of alcohol by volume, which is fit for beverage purposes, and shall include beer as hereinafter defined;

(B) "Beer" shall mean any brewed alcoholic beverage and shall include beer, ale, porter and stout;

(C) "Person" shall mean any individual, partnership, firm, corporation, association or any other legal or business entity;

(D) "Retailer" shall mean any person engaged in the business of selling alcoholic beverages to consumers;

(E) "Defendants" shall mean the Connecticut Package Stores Association, Inc., New Haven Package Stores Association and those persons consenting to be bound by this Final Judgment as provided for in Section V(B) herein.

III.

The provisions of this Final Judgment applicable to any named defendant and any other person consenting to this Final Judgment shall apply to such defendant and such person and to each of its officers, directors, members, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any such defendant or consenting person who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

Defendants are enjoined and restrained from:

(A) Entering into, adhering to, maintaining or enforcing any contract, agreement, understanding, plan or program, directly or indirectly, to

(1) Fix, establish, determine or suggest prices, mark-ups or other terms or conditions relating to prices or mark-ups for the sale of any alcoholic beverage by any vendor;

(2) Boycott or otherwise refuse to buy, stock, advertise, display, recommend, and in the case of beer, cool, any alcoholic beverage;

(B) Communicating, discussing, advocating with or suggesting to any vendor of alcoholic beverages, or with any association or central agency thereof, any prices or mark-ups on the sale of alcoholic beverages;

(C) Employing coercion, pressure or any device designed to limit the freedom of any vendor of alcoholic beverages, or offering, suggesting or implying to any person any preference, inducement or favorable treatment with respect to any alcoholic beverage, for the purpose of or with the natural and probable effect of influencing or affecting in any way:

(1) Any price of any alcoholic beverage posted or to be posted under Connecticut law, or any mark-up in connection with the sale of any alcoholic beverage;

(2) Any policy or decision of any retailer of alcoholic beverages with respect to the purchase, sale, promotion, display, advertising or refrigeration of any alcoholic beverage; and

from attempting or planning to do any of the acts prohibited by this subsection;

(D) Investigating or policing prices or mark-ups charged, posted or imposed for the sale of alcoholic beverages;

(E) Belonging to, cooperating with, or participating in the activities of any trade group or association the activities of which would be enjoined by this Final Judgment if such trade group or association were a party to this Final Judgment.

V

Defendants are ordered and directed:

(A) Within ninety (90) days from the date of entry of this Final

Judgment, to mail a copy of said judgment to (1) each of its members, and (2) each trade association of retailers in the State of Connecticut; and to file with this Court, with a copy to the plaintiff, an affidavit setting forth the fact and manner of compliance with this subsection (A) and the persons to whom copies of said judgment were sent;

(B) To expel and sever all relations and connections with any affiliated or subordinate trade association and any delegate or representative thereof, which does not within ninety (90) days from the date of entry of this Final Judgment, file with this Court, with a copy served upon plaintiff, its written consent to be bound by the terms of this Final Judgment as a party defendant and to incorporate and maintain the provisions of Section IV of this Final Judgment as part of its governing constitution, By-Laws, Rules and Regulations, such written consent to be so ordered by this Court.

VI.

The defendant Connecticut Package Stores Association is ordered and directed to:

(A) Prepare and issue, within sixty (60) days from the date of entry hereof, a special edition of the Eye-Opener, its monthly publication, setting forth the fact of entry of and the provisions of Sections IV and V of this Final Judgment;

(B) Publish, within sixty (60) days from the date of entry hereof, a statement in a prominent section of the Connecticut Beverage Journal, 151 Court Street, New Haven, Connecticut, setting forth the fact of entry of and the provisions of Sections IV and V hereof;

(C) Furnish the plaintiff with (1) copy of the aforesaid special edition of the Eye-Opener and a copy of each edition of the Eye-Opener (on a current basis) issued within a period of two (2) years from the date of entry hereof, and (2) a copy of the edition of the Connecticut Beverage Journal containing the statement provided for in subsection (B) hereof;

(D) Dissolve its Marketing and Merchandising Committee and to adopt, maintain and comply with a By-law accomplishing the same and forbidding the establishment or operation of any similar committee in the future;

(E) Adopt, maintain and comply with a By-law forbidding its Policy Committee and its Grievance Committee from engaging in any price or mark-up decision, recommendation or program;

(F) Cause its Board of Directors to adopt and maintain a Resolution cancelling all prior decisions of the Board characterizing any price or mark-up as reasonable, profitable or fair, or as unreasonable, unprofitable or unfair;

(G) Incorporate within its Constitution and By-laws the provisions of Section IV of this Final Judgment;

(H) File, within ninety (90) days from the date of entry hereof, an affidavit with this Court, a copy to be furnished the plaintiff, setting forth the fact and manner of compliance with the provisions of Sections V and VI of this Final Judgment.

VII.

The defendant, the New Haven Package Stores Association, is ordered and directed to:

(A) Dissolve its Markup Committee and abolish the office of Markup Chairman and to adopt, maintain and comply with a Resolution dissolving and abolishing the foregoing and forbidding the establishment or operation of any similar committee or official in the future;

(B) Adopt a Resolution incorporating the provisions of Section IV of this Final Judgment as part of its governing Rules and Regulations;

(C) File within ninety (90) days from the date of entry hereof, an affidavit with this Court, a copy to be furnished the plaintiff, setting forth the fact and manner of compliance with the provisions of Sections V and VII of this Final Judgment.

VIII.

Nothing in Subsection B of Section IV of this Final Judgment shall be construed to limit any legal rights to petition in good faith any public official for any legislative or governmental action.

IX

(A) For the purpose of determining and securing compliance with this Final Judgment and subject to any legally recognized privilege, 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 any defendant made to its principal office, be permitted:

(1) Access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any of the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it to interview officers or employees of such defendant who may have counsel present, regarding any such matters.

(B) Any defendant, on the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice, shall submit such reports in writing, under oath if requested, with respect to any matters contained in this Final Judgment as may from time to time be reasonably necessary for the purpose of the enforcement of this Final Judgment;

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

X

Jurisdiction is retained 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 carrying out of this Final Judgment or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Dated: June 4, 1963

/s/ Robert P. Anderson
United States District Judge