

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TENNESSEE

WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

UNITED LIQUORS CORPORATION,
SIDNEY PERLBERG, KING KLEIN,
HUBERT R. LEWIS, ALEX
BARZIZZA and GEORGE B. HART,

Defendants.

No. 2572 - Civil Action

RECEIVED

AUG - 1 1956

U. S. ATTORNEY
MEMPHIS, TENN.

FINAL JUDGMENT

PREAMBLE

This case was tried upon the complaint, answers of the defendants United Liquors Corporation, Sidney Perlberg, King Klein, Hubert R. Lewis, Alex F. Barzizza and George B. Hart, and evidence taken in court between July 5, 1956 and July 12, 1956. The Court having duly filed its findings of fact and conclusions of law.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED, as follows:

I.

(A) This Court has jurisdiction of the subject matter of this cause of action and of each of the defendants named in the preamble of this judgment;

(B) The complaint states a cause of action against the said defendants, and each of them, under Section 1 of the Act of Congress of July 2, 1890, 26 Stat. 209; 15 U.S.C. Sec. 1, as amended, commonly known as the Sherman Act;

(C) The said defendants have combined and conspired to restrain interstate trade and commerce in the sale of alcoholic beverages within the State of Tennessee in violation of Section 1 of the

II

As used in this Final Judgment:

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

(B) "Alcoholic Beverage" shall mean any whiskey, rum, gin, brandy, cordial, wine, cider, alcohol or any other spiritous, vinous, malt or fermented liquor, liquid or compound, by whatever name called, containing one-half of one per cent or more of alcohol by volume, which is fit for beverage purposes, except beer;

(C) "Manufacturer" shall mean any person who distills, rectifies, blends, ferments or bottles any alcoholic beverage, or imports into the United States any alcoholic beverage from outside the United States, or who, as a distributor of alcoholic beverages, sells to a wholesaler for resale to a retailer;

(D) "Memphis Trading Area" shall mean Shelby County, Tennessee, and other Counties in the State of Tennessee supplied with alcoholic beverages by Memphis wholesalers.

III

The provisions of this Final Judgment applicable to any of the said defendants shall apply to such defendants, their officers, agents, servants, employees and attorneys, and to those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise. For the purposes of this Final Judgment, a defendant and the respective officers, agents, servants, employees and attorneys thereof shall be deemed to be one person when acting in such capacity.

IV

The said defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, concerted plan or program among themselves or with any other person,

(A) Control, fix, raise, adopt, stabilize or maintain prices, mark-ups, margins of profit, terms or conditions at which alcoholic beverages are sold or offered for sale to third persons;

(B) Control, fix, raise, adopt, stabilize, maintain or eliminate discounts at which alcoholic beverages are sold or offered for sale to third persons;

(C) Induce, compel or coerce, or attempt to induce, compel or coerce any person to adhere to, or to police or enforce adherence to, prices, terms or conditions at which alcoholic beverages will be sold to any person, or to any group or class of persons;

(D) Communicate, directly or indirectly, with any manufacturer or wholesaler for the purpose of inducing, compelling or coercing such manufacturer or wholesaler to establish, adopt, issue or enforce minimum or suggested resale prices, mark-ups, margins of profit or discounts at which alcoholic beverages are sold or offered for sale to third persons;

(E) Communicate, directly or indirectly, with any manufacturer or wholesaler for the purpose of inducing, compelling or coercing such manufacturer or wholesaler to refrain from selling, or to otherwise discriminate in the sale of, alcoholic beverages to any person or to any group or class of persons;

(F) Boycott or otherwise refuse to deal with, or threaten to boycott or otherwise refuse to deal with any person engaged in the purchase, sale or distribution of alcoholic beverages;

(G) Induce, compel or coerce, or attempt to induce, compel or coerce any person to boycott or otherwise refuse to deal with any person engaged in the purchase, sale or distribution of alcoholic beverages;

(H) "Push" or give preference to alcoholic beverages on the condition or understanding that the manufacturer or wholesaler thereof establish, adopt, issue or enforce, or agree to establish,

margins of profit or discounts thereon.

Nothing in this Section IV shall be deemed to prohibit the said defendants from proposing or supporting legislation or the adoption of local, state, or federal regulations, relating to the purchase, sale or distribution of alcoholic beverages or from individually taking action required by local, state or federal legislation or regulation.

V

(A) Each of the said defendants is enjoined and restrained, for a period of three years from the effective date of this final judgment, from disseminating, or preparing for dissemination, to any person price lists or other price information containing minimum or suggested resale prices, mark-ups, or margins of profit for alcoholic beverages to be sold or offered for sale to third persons;

(B) Each of the said defendants is enjoined and restrained from belonging to or participating in any organization, or concerted plan or program, for policing prices at which alcoholic beverages are sold or offered for sale by any person.

VI

(A) Each of the said defendants is enjoined for a period of five years from the effective date of this final judgment, from entering into, adhering to, or pricing pursuant to any fair trade contract which purports to fix or control the resale price of any alcoholic beverage in the Memphis trading area, and, to the extent that any such defendant elects to sell alcoholic beverages in the Memphis trading area during said period of five years to do so at prices individually determined by himself, without reference to fair trade prices established thereon.

(B) Each of the said defendants is enjoined and restrained for a period of five years from the effective date of this final judgment from urging, suggesting or otherwise inducing any manufacturer

or wholesaler to establish, adopt, issue or enforce minimum or suggested resale prices for alcoholic beverages.

VII

The said defendants are jointly and severally enjoined and restrained from organizing, becoming a member of, or participating directly or indirectly in the activities of any trade association or other organization, the purposes or functions of which relate to the distribution or sale of alcoholic beverages contrary to any provision of this Final Judgment.

VIII

For the purpose of securing compliance with this Final Judgment and for no other purpose, 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 said defendant, made to its principal office, be permitted:

(A) 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 matters contained in this final judgment, and

(B) 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.

Upon request each of said defendants shall submit such reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as may from time to time be necessary to the enforcement of said judgment. No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in

the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

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, for the modification of any of the provisions thereof, for the enforcement of compliance therewith and for the punishment of violations thereof.

X

Judgment is entered against the said defendants for all costs to be taxed in this proceeding.

Dated: August 1st, 1956.

Morris S. Boyd
United States District Judge