

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of)	
)	
ALBERTSON’S, INC.,)	
a corporation; and)	Docket No.
)	
AMERICAN STORES COMPANY,)	
a corporation.)	
)	

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission ("Commission"), having reason to believe that respondent Albertson’s, Inc. ("Albertson’s"), through Abacus Holdings, Inc. ("Abacus"), a wholly owned subsidiary, has entered into an agreement to acquire all of the outstanding securities of respondent American Stores Company ("American Stores"), all subject to the jurisdiction of the Commission, in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, that such acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

Definition

1. For the purposes of this complaint:

"Supermarket" means a full-line retail grocery store that carries a wide variety of food and grocery items in particular product categories, including bread and dairy products; refrigerated and frozen food and beverage products; fresh and prepared meats and poultry; produce, including fresh fruits and vegetables; shelf-stable food and beverage products, including canned and other types of packaged products; staple foodstuffs, which may include salt, sugar, flour, sauces, spices, coffee, and tea; and other grocery products, including nonfood items such as soaps, detergents, paper goods, other household products, and health and beauty aids.

Albertson’s, Inc.

2. Respondent Albertson's is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 250 East Parkcenter Boulevard, Boise, Idaho 83726.

3. Respondent Albertson's is, and at all times relevant herein has been, engaged in the operation of supermarkets in 25 Western, Midwestern, and Southern states. Albertson's operates 994 supermarkets and combination supermarkets and pharmacies under the Albertson's, Max Grocery Warehouse, Monte Mart, Seessel's, and Smitty's trade names. Albertson's had approximately \$16 billion in total sales for the fiscal year that ended on January 28, 1999.

4. Respondent Albertson's is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

American Stores Company

5. Respondent American Stores is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 299 South Main Street, Salt Lake City, Utah 84111.

6. Respondent American Stores is, and at all times relevant herein has been, engaged in the operation of supermarkets in 12 Western, Midwestern and Eastern states. American Stores operates approximately 802 supermarkets and combination supermarket and pharmacies under the Lucky, SuperSaver, Sav-On, Acme Markets, and Jewel Food Stores trade names. American Stores also operates 773 stand-alone drug stores. American Stores had \$19.9 billion in total sales for the fiscal year that ended on January 30, 1999.

7. Respondent American Stores is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

Acquisition

8. On or about August 2, 1998, Albertson's, Abacus, and American Stores entered into an Agreement and Plan of Merger pursuant to which Abacus will acquire and convert all of the outstanding securities of American Stores into Albertson's stock. Pursuant to the Agreement and Plan of Merger, each share of American Stores common stock would be converted into .63 shares of Albertson's common stock. Abacus will then merge with and into American Stores, and American Stores will become a wholly owned subsidiary of Albertson's. The total value of the proposed acquisition is approximately \$13 billion.

Trade and Commerce

9. The relevant line of commerce (*i.e.*, the product market) in which to analyze the acquisition described herein is the retail sale of food and grocery products in supermarkets.

10. Supermarkets provide a distinct set of products and services for consumers who desire to one-stop shop for food and grocery products. Supermarkets carry a full line and wide selection of both food and nonfood products (typically more than 10,000 different stock-keeping units ("SKUs")) as well as a deep inventory of those SKUs in a variety of brand names and sizes. In order to accommodate the large number of food and nonfood products necessary for one-stop shopping, supermarkets are large stores that typically have at least 10,000 square feet of selling space.

11. Supermarkets compete primarily with other supermarkets that provide one-stop shopping for food and grocery products. Supermarkets base their food and grocery prices on the prices primarily of food and grocery products sold at nearby supermarkets. Supermarkets do not regularly price-check food and grocery products sold at other types of stores and do not significantly change their food and grocery prices in response to prices at other types of stores. Most consumers shopping for food and grocery products at supermarkets are not likely to shop elsewhere in response to a small price increase by supermarkets.

12. Retail stores other than supermarkets that sell food and grocery products, such as neighborhood "mom & pop" grocery stores, limited assortment stores, convenience stores, specialty food stores (*e.g.*, seafood markets, bakeries, etc.), club stores, military commissaries, and mass merchants, do not effectively constrain prices at supermarkets. These stores operate significantly different retail formats. None of these stores offers a supermarket's distinct set of products and services that enable consumers to one-stop shop for food and grocery products.

13. The relevant sections of the country (*i.e.*, the geographic markets) in which to analyze the acquisition described herein are the areas in and near the following cities and towns:
 - a. Antioch/Pittsburg, California;
 - b. Apple Valley/Hesperia/Victorville, California;
 - c. Atascadero, California;
 - d. Auburn, California;
 - e. Greater Bakersfield, California;
 - f. Claremont/Pomona/Rancho Cucamonga, California;

- g. Danville/San Ramon/Dublin/Pleasanton, California;
- h. Davis, California;
- i. Encinitas, California;
- j. Escondido, California;
- k. Fallbrook, California;
- l. Grass Valley, California;
- m. Grover City/Arroyo Grande, California;
- n. Jackson, California;
- o. La Mesa/El Cajon, California;
- p. Laguna Beach, California;
- q. Lancaster/Palmdale, California;
- r. Livermore, California;
- s. Lompoc, California;
- t. Monterey/Seaside/Del Rey Oaks/Pacific Grove, California;
- u. Moorpark, California;
- v. Morro Bay/Los Osos, California;
- w. Murrieta/Temecula, California;
- x. Napa, California;
- y. Northern Covina, California, an area that includes Azusa, Baldwin Park, Charter Oak, Citrus, Covina, Glendora, La Puente, Valinda, Vincent, West Covina, and West Puente;
- z. Oceanside/Vista/Carlsbad, California;
- aa. Oxnard, California;

- bb. Palm Springs/Indio, California;
- cc. Paso Robles, California;
- dd. Petaluma, California;
- ee. Poway/North San Diego, California;
- ff. Ramona, California;
- gg. Redlands, California;
- hh. Rialto/Fontana, California;
- ii. Riverside/Corona, California;
- jj. Greater Sacramento, California, and narrower markets contained therein;
- kk. Salinas, California;
- ll. San Luis Obispo, California;
- mm. Santa Barbara/Goleta, California;
- nn. Santa Clarita, California;
- oo. Santa Cruz/Capitola, California;
- pp. Santa Maria/Orcutt, California;
- qq. Santa Rosa, California;
- rr. Simi Valley, California;
- ss. Sonoma/Hot Springs, California;
- tt. South Los Angeles County/North Orange County, California, an area approximately bordered on the north by the Santa Monica and San Jose Hills/Puente Hills/Chino Hills, on the west by Interstate 710 and the Pacific Ocean, on the east by the Santa Ana Mountains, and on the south by the Laguna Hills and El Toro Marine Corps Air Base, and narrower markets contained therein;
- uu. South Orange County, California, and narrower markets contained therein;

- vv. Southern Covina, California, an area that includes the communities of Diamond Bar, Hacienda Heights, South San Jose Hills, and Walnut;
- ww. Thousand Oaks/Newbury Park/Casa Conejo, California;
- xx. Torrance, California;
- yy. Vacaville, California;
- zz. Watsonville/Freedom, California;
- aaa. Eastern Albuquerque, New Mexico;
- bbb. Las Cruces, New Mexico;
- ccc. Rio Rancho/Northwest Albuquerque, New Mexico;
- ddd. Santa Fe, New Mexico; and
- eee. Greater Las Vegas/Henderson, Nevada, and narrower markets contained therein.

Market Structure

14. The post-merger relevant markets are all highly concentrated, whether measured by the Herfindahl-Hirschman Index (commonly referred to as "HHI") or by the four-firm concentration ratio. The acquisition would substantially increase concentration in each market. The post-acquisition HHIs in the geographic markets range from 2,000 to 8,090.

Entry Conditions

15. Entry would not be timely, likely, or sufficient to prevent anticompetitive effects in the relevant markets.

Actual Competition

16. Albertson's and American Stores are actual and direct competitors in and near Apple Valley/Hesperia/Victorville, Auburn, Greater Bakersfield, Claremont/Pomona/Rancho Cucamonga, Danville/San Ramon/Dublin/Pleasanton, Davis, Encinitas, Escondido, Grass Valley, Grover City/Arroyo Grande, Jackson, La Mesa/El Cajon, Laguna Beach, Lancaster/Palmdale, Livermore, Lompoc, Monterey/Seaside/Del Rey Oaks/Pacific Grove, Moorpark, Murrieta/Temecula, Napa, Northern Covina, Oceanside/Vista/Carlsbad, Oxnard, Palm Springs/Indio, Paso Robles, Petaluma, Poway/North San Diego, Ramona, Redlands,

Rialto/Fontana, Riverside/Corona, Greater Sacramento, Salinas, San Luis Obispo, Santa Barbara/Goleta, Santa Clarita, Santa Cruz/Capitola, Santa Rosa, Simi Valley, Sonoma/Hot Springs, South Los Angeles County/North Orange County, South Orange County, Southern Covina, Thousand Oaks/Newbury Park/Casa Conejo, Torrance, Vacaville, Watsonville/Freedom, California; Eastern Albuquerque, Las Cruces, Rio Rancho/Northwest Albuquerque, Santa Fe, New Mexico; and Greater Las Vegas/Henderson, Nevada.

Actual Potential Competition

17. Albertson's is an actual potential competitor against American Stores in and near Antioch/Pittsburg, Atascadero, Fallbrook, and Santa Maria/Orcutt, California. American Stores is an actual potential competitor against Albertson's in Morro Bay/Los Osos, California. But for the acquisition, Albertson's and American Stores would have become direct competitors in and near Antioch/Pittsburg, Atascadero, Fallbrook, Morro Bay/Los Osos, and Santa Maria/Orcutt, California. The acquisition will eliminate that competition.

Effects

18. The effect of the acquisition, if consummated, may be substantially to lessen competition in the relevant line of commerce in the relevant sections of the country in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the following ways, among others:

- a. by eliminating direct competition between supermarkets owned or controlled by Albertson's and supermarkets owned or controlled by American Stores;
- b. by eliminating actual potential competition between supermarkets owned or controlled by Albertson's and supermarkets owned or controlled by American Stores;
- c. by increasing the likelihood that Albertson's will unilaterally exercise market power; and
- d. by increasing the likelihood of, or facilitating, collusion or coordinated interaction,

each of which increases the likelihood that the prices of food, groceries or services will increase, and the quality and selection of food, groceries or services will decrease, in the relevant sections of the country.

Violations Charged

19. The Agreement and Plan of Merger between Albertson's, Abacus and American Stores, pursuant to which Albertson's and Abacus will acquire all of the outstanding securities of

American Stores, violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C.

§ 45, and the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this ___ day of _____, 19__ , issues its complaint against said respondents.

By the Commission.

SEAL:

Donald S. Clark
Secretary