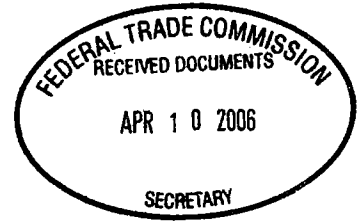


UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of)
)
)
KONINKLIJKE AHOLD N.V.,)
a corporation,)
)
and)
)
BRUNO'S SUPERMARKETS, INC.,)
a corporation.)

Docket No. C-4027
PUBLIC VERSION

FEDERAL TRADE COMMISSION
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DOCUMENT PROCESSING

**PETITION OF RESPONDENT KONINKLIJKE AHOLD N.V. TO
REOPEN AND MODIFY DECISION AND ORDER**

Koninklijke Ahold N.V. ("Ahold"), a Respondent *In the Matter of* Koninklijke Ahold, N.V. and Bruno's Supermarkets, Inc., FTC File No. 011-0247, FTC Docket No. C-4027, respectfully requests the Federal Trade Commission (the "Commission") to reopen and modify the Commission's Decision and Order ("Order"), dated January 16, 2002. (Attached as Exhibit 1). Ahold makes this request pursuant to § 5(b) of the Federal Trade Commission Act, 15 U.S.C. §45(b), and §2.51 of the Commission's Rules of Practice and Procedure, 16 C.F.R. §2.51, because of changed conditions of fact and because this request is in the public interest.

A satisfactory showing sufficient to require reopening is furnished when a request to reopen identifies significant changes in circumstances and shows that the changes eliminate the need for the order or make continued application of it inequitable or harmful to competition. *See* S. Rep. No. 96-500, 96th Cong., 2d Sess. 9 (1979). Ahold's reasons for filing the foregoing

Petition to Reopen and Modify the Order (“Petition”) are set forth in the attached affidavit of Brian W. Hotarek, Executive Vice President, Ahold U.S.A., Inc. (Attached as Exhibit 2).

Briefly, in January 2005, Ahold sold all of its Supermarket assets in the areas covered by the Order and therefore does not own or operate any Supermarket assets in the areas. The party that acquired the assets from Ahold was identified to the Commission

Redacted

Therefore, the Order as it relates to Ahold is no longer needed and should be vacated as to Ahold.

I. Procedural History

A. The Transaction

Pursuant to an Agreement and Plan of Merger dated as of September 4, 2001, by and among Ahold; New Bronco Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Ahold U.S.A., Inc.;¹ Bruno’s Supermarkets, Inc., a Delaware corporation (“Bruno’s Supermarkets”); and Elway Advisors, LLC, as stockholders’ representative, Ahold acquired 100% of the outstanding voting securities of Bruno’s Supermarkets for approximately \$500 million in cash by merger of New Bronco with and into Bruno’s Supermarkets, with Bruno’s Supermarkets continuing as the surviving corporation. (See FTC Press Release, attached as Exhibit 3). As a result of this merger, until December 2004, Ahold held 100% of the outstanding voting securities of Bruno’s Supermarkets.

The proposed transaction was investigated by the Commission. On December 7, 2001, the Commission issued a complaint (Attached as Exhibit 4), which culminated in an Agreement Containing Consent Orders signed by the parties. (Attached as Exhibit 5). The Commission

¹ On December 5, 2005, Ahold U.S.A., Inc., a Delaware corporation, merged with and into Ahold U.S.A. Holdings, Inc., a Maryland corporation. On December 5, 2005, Ahold U.S.A. Holdings, Inc. changed its name to Ahold U.S.A., Inc.

voted 5-0 to accept the consent order and place a copy on the public record. (See FTC Press Release, attached as Exhibit 3). After the 30-day public comment period expired, the Commission voted 5-0 to issue the Order on January 16, 2002. (See FTC Press Release, attached as Exhibit 6). Ahold has complied, and continues to comply, with all provisions of the Order.

B. The Order

Specifically, the terms of the Order required the following. Ahold was required to divest two of its BI-LO Supermarkets in Georgia, one in Baldwin County and one in Washington County. The store in Baldwin County was sold to The Kroger Co. and the store in Washington County was sold to Winn-Dixie Stores, Inc. Pursuant to Paragraphs II.A. and II.B. of the Order, and as reported in Ahold's 30-day Report filed with the Commission and dated February 15, 2002, Ahold divested all assets as required by the Order. (Attached as Exhibit 7).

Pursuant to Paragraph IV.A. of the Order, for a period of ten (10) years from the date the Order became final (January 16, 2002), Ahold is required to provide advance written notice to the Commission prior to acquiring any ownership or leasehold interest in any facility that has operated as a Supermarket within six months of the date of such proposed acquisition in Baldwin County or Washington County, Georgia. Ahold has made no such acquisition.

Pursuant to Paragraph IV.B. of the Order, for a period of ten (10) years from the date the Order became final (January 16, 2002), Ahold is required to provide advance written notice to the Commission prior to acquiring any stock, share capital, equity, or other interest in any entity that owns any interest in or operates any Supermarket, or owned a Supermarket within six months prior to such proposed acquisition in Baldwin County or Washington County, Georgia. Ahold has made no such acquisition.

Pursuant to Paragraph V.A. of the Order, Ahold may neither enter into nor enforce any agreement that restricts the ability of any person that acquires any Supermarket, any leasehold

interest in any Supermarket, or any interest in any retail location used as a Supermarket on or after January 1, 2001 in Baldwin County or Washington County, Georgia to operate a Supermarket at that site if such Supermarket was formerly owned or operated by Ahold. Ahold has neither entered into nor enforced any such agreements.

Pursuant to Paragraph V.B. of the Order, Ahold shall not remove any fixtures or equipment from a property owned or leased by Ahold in Baldwin County or Washington County, Georgia, that is no longer in operation as a Supermarket, except (1) prior to and as part of a sale, sublease, assignment, or change in occupancy of such Supermarket; or (2) to relocate such fixtures or equipment in the ordinary course of business to any other Supermarket owned or operated by Ahold. Ahold is in full compliance with Paragraph V.B. of the Order.

Pursuant to Paragraph VI.B. of the Order, Ahold is required to submit a verified written annual report. The most recent verified written annual report was submitted to the Commission by Ahold on January 13, 2006. (Attached as Exhibit 8). The reporting requirement under the Order continues until 2012. Ahold is in full compliance with Paragraph VI.B. of the Order.

Finally, pursuant to Paragraph VII. of the Order, Ahold is required to notify the Commission thirty days in advance of certain proposed changes to Ahold's business organization. ^{Redacted}, Ahold filed notice pursuant to Paragraph VII. of the Order, for the reasons stated below. (Attached as Exhibit 9).

C. Sale of Assets: Ahold Exits the Relevant Areas

^{Redacted}, Ahold entered into a Limited Liability Company Interest Purchase Agreement ("the Agreement") with Lone Star U.S. Acquisitions, LLC, a Delaware limited partnership ("Lone Star"), whereby Ahold, through Ahold U.S.A. Holdings, Inc., a Maryland corporation, n/k/a Ahold U.S.A., Inc., agreed to sell all of the outstanding limited

liability company interests in BI-LO Holding, LLC, a Delaware limited liability company. (Attached as Exhibit 10).

At the time of the Agreement, the operating companies for all of Ahold's Supermarkets throughout the Southeastern United States were included within BI-LO Holding, LLC: BI-LO, LLC; Bruno's Supermarkets Inc.; and Bruno's Inc. (See December 23, 2004 Ahold Press Release, attached as Exhibit 11). Redacted, Ahold submitted its Hart-Scott-Rodino filing in connection with this transaction, and received early termination of the waiting period on January 11, 2005. (Attached as Exhibit 12). The parties to the Agreement closed the transaction on January 31, 2005. (See January 31, 2005 Ahold Press Release, attached as Exhibit 13). As a result, after the closing, Ahold no longer owns or operates Supermarkets in the relevant areas subject to the compliance obligations of the Order, namely Baldwin County, or Washington County, Georgia (the "Relevant Areas").

II. The Requested Modification is Based Upon Changed Conditions of Fact and is in the Public Interest

A. Changed Conditions of Fact

Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. §45(b), provides that the Commission may reopen an order to consider whether it should be modified if the respondent "makes a satisfactory showing that changed conditions of law or fact" or public interest so require. Furthermore, Section 2.51(b) of the Commission's Rules of Practice, 16 C.F.R. § 2.51(b) provides that, "[a] request under this section shall contain a satisfactory showing that changed conditions of law or fact require the rule or order to be altered, modified, or set aside, in whole or in part, or that the public interest so requires."

As detailed above, the changed conditions of fact are based on Ahold's Agreement with Lone Star, whereby Ahold sold its Supermarkets in Baldwin County and Washington County,

Georgia, the areas subject to the compliance obligations of the Order. Although Ahold has continued to comply with the reporting obligations of the Order since the January 2005 sale of all of its outstanding interests in the Relevant Areas, the changed conditions of fact have eliminated the need for the Order as it relates to Ahold.

Ahold's requested modification is consistent with the goals of the Order and would eliminate unnecessary costs and burdens to Ahold and the Commission during the remaining term of the Order. The continuation of the reporting requirement for the remaining 6 years of the Order (until January 2012) would impose needless costs and burdens on Ahold and the Commission, in light of the changed conditions of fact. Furthermore,

Redacted

(See Exhibit 10).

B. Public Interest

In addition to changed conditions of fact, Ahold meets the public interest requirement of Section 2.51(b) because "the order in whole or in part is no longer needed." To meet the public interest requirement of Section 2.51(b), the requester must:

make a *prima facie* showing of a legitimate "public interest" reason or reasons justifying relief. [T]his showing requires the requester to demonstrate, for example, that there is a more

effective or efficient way of achieving the purposes of the order, that the order in whole or in part is no longer needed, or that there is some other clear public interest that would be served if the Commission were to grant the requested relief.

Requests to Reopen, 65 Fed. Reg. 50,636, 50,637 (Aug. 21, 2000), *amending* 16 C.F.R. 2.51(b).

When the Order was issued on January 16, 2002, the Commission was concerned that the transaction might substantially lessen competition in Baldwin County and Washington County, Georgia. As a result of the sale of Ahold's outstanding interests in the Relevant Areas, Ahold is no longer a competitor in the Relevant Areas.

The Redacted Agreement with Lone Star resulted in the sale of any remaining assets held or operated by Ahold in the Relevant Areas. Today, Ahold no longer owns or operates Supermarkets in the Relevant Areas, nor does Ahold own or operate supermarkets in any part of the Southeastern United States. Now that Ahold has sold its assets in the Relevant Areas, the Order is no longer needed as to Ahold. *In re Bendix Corp.*, 107 F.T.C. 60 (1986) (reopening and terminating provisions of order requiring prior approval because respondent divested or sold off all product lines that gave rise to the order, and the Commission's concerns leading to the order were no longer applicable).

Finally, continuation of the Order's notice and reporting provisions are not needed to protect the public interest. *See Notice and Request for Comment Regarding Statement of Policy Concerning Prior Approval and Prior Notice Provisions in Merger Cases*, 60 Fed. Reg. 39,745, 39,746 (Aug. 3, 1995); 4 Trade Reg. Rep. (CCH) ¶ 13,241 (limiting prior approval and notice provisions to narrow circumstances). Since Ahold has exited the Relevant Areas and is no longer a competitor, there is no credible risk that, but for the Order, Ahold would engage in an otherwise unreportable anticompetitive merger. *Id.* at 39,746. Here, there is nothing to suggest

that Ahold would attempt the same or essentially the same merger that gave rise to the original complaint.

III. Requested Modification to Decision and Order

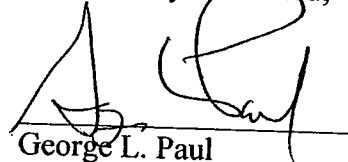
Ahold has filed this Petition because of changed conditions of fact and the public interest so requires. Ahold respectfully requests that the Commission vacate the Order as to Respondent Ahold.

IV. Conclusion

For the foregoing reasons, modifying the Order by vacating it as to Respondent Ahold is consistent with the purposes of the Order. The Order is unnecessary due to the changed conditions of fact and because the public interest no longer requires it. Therefore, Ahold's Petition should be granted.

Dated: April 10, 2006

Respectfully submitted,



George L. Paul
Douglas M. Jasinski
Anna Kertesz

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Washington, DC 20005
(202) 626-3600

Attorneys for Koninklijke Ahold N.V.

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

COMMISSIONERS: **Timothy J. Muris, Chairman**
 Sheila F. Anthony
 Mozelle W. Thompson
 Orson Swindle
 Thomas B. Leary

In the Matter of)

KONINKLIJKE AHOLD N.V.,)
 a corporation;)

and)

BRUNO'S SUPERMARKETS, INC.,)
 a corporation.)

Docket No. C-4027

DECISION AND ORDER

The Federal Trade Commission ("Commission") having initiated an investigation of the proposed acquisition of 100% of the outstanding voting securities of Respondent Bruno's Supermarkets, Inc. ("Bruno's") by Respondent Koninklijke Ahold N.V. ("Ahold"), hereinafter referred to as "Respondents," and Respondents having been furnished thereafter with a copy of a draft Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations 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; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders ("Consent Agreement"), containing an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that Respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having thereupon issued its Complaint and an Order to Maintain Assets, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order ("Order"):

1. Respondent Ahold is a corporation organized, existing and doing business under and by virtue of the laws of the Netherlands, with its office and principal place of business located at Albert Heijnweg 1, 1507 EH Zaandam, The Netherlands.
2. Respondent Bruno'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 800 Lakeshore Parkway, Birmingham, AL.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. "Ahold" means Koninklijke Ahold N.V., its directors, officers, employees, agents, representatives, predecessors, successors, and assigns; its joint ventures, subsidiaries, divisions, groups, and affiliates controlled by Koninklijke Ahold N.V. (including, but not limited to, BI-LO, LLC, and New Bronco Acquisition Corp.), and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. "Bruno's" means Bruno's Supermarkets, Inc., its directors, officers, employees, agents, representatives, predecessors, successors, and assigns; its joint ventures, subsidiaries, divisions, groups, and affiliates controlled by Bruno's Supermarkets, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. "Respondents" means Ahold and Bruno's, individually and collectively.
- D. "Acquisition" means Ahold's proposed acquisition of the outstanding voting securities of Bruno's pursuant to the "Agreement and Plan of Merger Dated as of September 4, 2001 By and Among Koninklijke Ahold N.V., New Bronco Acquisition Corp., Bruno's Supermarkets, Inc. and Elway

Advisors, LLC, as Stockholder's Representatives."

- E. "Commission" means the Federal Trade Commission.
- F. "Assets To Be Divested" means the Milledgeville Assets and the Sandersville Assets.
- G. "Business Day" means any day excluding Saturday, Sunday and any United States Federal holiday.
- H. "Commission-approved Acquirer" means any entity approved by the Commission to acquire either or both of the Assets To Be Divested pursuant to this Order.
- I. "Divestiture Agreement" means any agreement between the Respondents and a Commission-approved Acquirer (or a trustee appointed pursuant to Paragraph III of this Order and a Commission-approved Acquirer) and all amendments, exhibits, attachments, agreements, and schedules thereto, related to the Assets To Be Divested that have been approved by the Commission to accomplish the requirements of this Order. The term Divestiture Agreement includes, as appropriate, the Kroger Agreement, and/or the Winn-Dixie Agreement.
- J. "Divestiture Trustee(s)" means any person or entity appointed by the Commission pursuant to Paragraph III of the Decision and Order to act as a trustee in this matter.
- K. "Kroger" means The Kroger Co., a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its offices and principal place of business located at 1014 Vine Street, Cincinnati, Ohio 45202-1100.
- L. "Kroger Agreement" means the "Agreement of Purchase and Sale of Assets and Assignment and Assumption of Lease" by and between BI-LO, LLC and The Kroger Co. made and entered into on November 14, 2001, and all amendments, exhibits, attachments, related agreements, and schedules thereto, that have been approved by the Commission to accomplish the requirements of this Order.
- M. "Milledgeville Assets" means the Supermarket currently operated by Respondent Ahold under the BI-LO trade name located at 1692 North Columbia Street, Milledgeville, Georgia, 31061, and all assets, leases, properties, government permits (to the extent transferable), customer lists, businesses and goodwill, tangible and intangible, related to or used in the Supermarket business operated at that location, but shall not include those assets consisting of or pertaining to any of the Respondents' trade marks, trade dress, service marks, or trade names. Provided, however, the inventory of consumer goods and merchandise owned by the Respondents for sale in the ordinary course of the Supermarket business may be excluded from the divestiture at the option of the Commission-approved Acquirer.
- N. "Sandersville Assets" means the Supermarket currently operated by Respondent Ahold under the BI-LO trade name located at 648 Harris Street, Sandersville, Georgia, 31082, and all assets, leases,

properties; government permits (to the extent transferable), customer lists, businesses and goodwill, tangible and intangible, related to or used in the Supermarket business operated at that location, but shall not include those assets consisting of or pertaining to any of the Respondents' trade marks, trade dress, service marks, or trade names. Provided, however, the inventory of consumer goods and merchandise owned by the Respondents for sale in the ordinary course of the Supermarket business may be excluded from the divestiture at the option of the Commission-approved Acquirer.

- O. "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.
- P. "Third Party Consents" means all consents from any person other than the Respondents, including all landlords, that are necessary to effect the complete transfer to the Commission-approved Acquirer(s) of the Assets To Be Divested.
- Q. "Winn-Dixie" means Winn-Dixie Stores, Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its offices and principal place of business located at 5050 Edgewood Court, Jacksonville, Florida 32254.
- R. "Winn-Dixie Agreement" means "Agreement of Purchase and Sale of Assets and Assignment and Assumption of Lease" by and between BI-LO, LLC and Winn-Dixie Stores, Inc. made and entered into on November 13, 2001, and all amendments, exhibits, attachments, related agreements, and schedules thereto, that have been approved by the Commission to accomplish the requirements of this Order.

II.

IT IS FURTHER ORDERED that:

- A. Not later than ten (10) Business Days after the date on which the Acquisition is consummated, Respondents shall divest, absolutely and in good faith, the Milledgeville Assets as an ongoing business to Kroger pursuant to and in accordance with the Kroger Agreement (which agreement shall not vary or contradict, or be construed to vary or contradict, the terms of this Order), and such agreement, if approved by the Commission, is incorporated by reference into this Order and made part hereof as non-public Appendix I. Any failure by Respondents to comply with all terms of any Divestiture Agreement related to the Milledgeville Assets shall constitute a failure to comply with this Order.

Provided, however, that if Respondents have divested the Milledgeville Assets to Kroger pursuant to the Kroger Agreement prior to the date this Order becomes final, and if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that Kroger is not an acceptable purchaser of the Milledgeville Assets or that the manner in which the divestiture was accomplished is not acceptable, then Respondents shall immediately rescind the transaction with Kroger and shall divest the Milledgeville Assets within three (3) months of the date the Order becomes final, absolutely and in good faith, at no minimum price, to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

- B. Not later than ten (10) Business Days after the date on which the Acquisition is consummated, Respondents shall divest, absolutely and in good faith, the Sandersville Assets as an ongoing business to Winn-Dixie pursuant to and in accordance with the Winn-Dixie Agreement (which agreement shall not vary or contradict, or be construed to vary or contradict, the terms of this Order), and such agreement, if approved by the Commission, is incorporated by reference into this Order and made part hereof as non-public Appendix II. Any failure by Respondents to comply with all terms of any Divestiture Agreement related to the Sandersville Assets shall constitute a failure to comply with this Order.

Provided, however, that if Respondents have divested the Sandersville Assets to Winn-Dixie pursuant to the Winn-Dixie Agreement prior to the date this Order becomes final, and if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that Winn-Dixie is not an acceptable purchaser of the Sandersville Assets or that the manner in which the divestiture was accomplished is not acceptable, then Respondents shall immediately rescind the transaction with Winn-Dixie and shall divest the Sandersville Assets within three (3) months of the date the Order becomes final, absolutely and in good faith, at no minimum price, to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

- C. Respondents shall obtain all required Third Party Consents prior to the closing of each Divestiture Agreement pursuant to which the Assets To Be Divested are divested to a Commission-approved Acquirer.
- D. Any Divestiture Agreement between Respondents (or a trustee appointed pursuant to Paragraph III. of this Order) and a Commission-approved Acquirer of the Assets To Be Divested that has been approved by the Commission shall be deemed incorporated by reference into this Order, and any failure by Respondents to comply with the terms of such Divestiture Agreement shall constitute a failure to comply with this Order.
- E. The purpose of the divestitures is to ensure the continuation of the Milledgeville Assets and the Sandersville Assets as ongoing viable enterprises engaged in the Supermarket business and to remedy

the lessening of competition resulting from the Acquisition alleged in the Commission's Complaint.

III.

IT IS FURTHER ORDERED that:

- A. If Respondents have not fully complied with the obligations specified in Paragraph II of this Order, the Commission may appoint a trustee or trustees to divest the relevant Assets To Be Divested pursuant to Paragraph II in a manner that satisfies the requirements of Paragraph II. The Commission may appoint a different Divestiture Trustee to accomplish each of the divestitures required in Paragraph II. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a Divestiture Trustee in such action. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Divestiture Trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.
- B. If a Divestiture Trustee is appointed by the Commission or a court pursuant to Paragraph III.A. of this Order, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:
1. The Commission shall select the Divestiture Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
 2. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to divest the relevant assets that are required by this Order to be divested.
 3. Within ten (10) days after appointment of the Divestiture Trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed Divestiture Trustee, of the court, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the relevant divestiture(s) required by the Order.

4. The Divestiture Trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III. B. 3. to accomplish the divestiture(s), which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the Divestiture Trustee has submitted a plan of divestiture or believes that the divestiture(s) can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed Divestiture Trustee, by the court; provided, however, the Commission may extend the divestiture period only two (2) times.
5. The Divestiture Trustee shall have full and complete access to the personnel, books, records and facilities relating to the relevant assets that are required to be divested by this Order or to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestiture(s). Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court.
6. The Divestiture Trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest at no minimum price. The divestiture(s) shall be made in the manner and to a Commission-approved Acquirer as required by this Order; provided, however, if the Divestiture Trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the Divestiture Trustee shall divest to the acquiring entity selected by Respondents from among those approved by the Commission; provided further, however, that Respondents shall select such entity within five (5) Business Days of receiving notification of the Commission's approval.
7. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture(s) and all expenses incurred. After approval by the Commission and, in the case of a court-appointed Divestiture Trustee, by the court, of the account of the Divestiture Trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the Respondents, and the Divestiture Trustee's power shall be terminated. The compensation of the Divestiture Trustee shall be based at least in significant part on a commission arrangement

contingent on the divestiture of all of the relevant assets that are required to be divested by this Order.

8. Respondents shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Divestiture Trustee.
9. If the Divestiture Trustee ceases to act or fails to act diligently, a substitute Divestiture Trustee shall be appointed in the same manner as provided in Paragraph III.A. of this Order.
10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture(s) required by this Order.
11. In the event that the Divestiture Trustee determines that he or she is unable to divest the relevant Assets To Be Divested pursuant to the relevant Paragraph(s) in a manner that preserves their marketability, viability and competitiveness and ensures their continued use as Supermarket businesses, the Divestiture Trustee may divest such additional assets related to the relevant Supermarket businesses of the Respondents and effect such arrangements as are necessary to satisfy the requirements of this Order.
12. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.
13. The Divestiture Trustee shall report in writing to Respondents and the Commission every sixty (60) days concerning the Divestiture Trustee's efforts to accomplish the divestiture(s).
14. Respondents may require the Divestiture Trustee to sign a customary confidentiality agreement; provided, however, such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.

IV.

IT IS FURTHER ORDERED that, for a period of ten (10) years commencing on the date this Order becomes final, Respondents shall not, directly or indirectly, through subsidiaries, partnerships or otherwise, without providing advance written notification to the Commission:

- A. Acquire any ownership or leasehold interest in any facility that has operated as a Supermarket within six (6) months prior to the date of such proposed acquisition in Baldwin County or Washington County, Georgia.
- B. Acquire any stock, share capital, equity, or other interest in any entity that owns any interest in or operates any Supermarket, or owned any interest in or operated any Supermarket within six (6) months prior to such proposed acquisition in Baldwin County or Washington County, Georgia.

Provided, however, that advance written notification shall not apply to the construction of new facilities by Respondents or the acquisition of or leasing a facility that has not operated as a Supermarket within six (6) months prior to Respondent's offer to purchase or lease such facility.

Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as "the Notification"), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of Respondents and not of any other party to the transaction. Respondents shall provide the Notification to the Commission at least thirty (30) days prior to consummating any such transaction (hereinafter referred to as the "first waiting period"). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 C.F.R. § 803.20), Respondents shall not consummate the transaction until thirty (30) days after substantially complying with such request. Early termination of the waiting periods in this Paragraph may be requested and, where appropriate, granted by letter from the Bureau of Competition. Provided, however, that prior notification shall not be required by this Paragraph for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

V.

IT IS FURTHER ORDERED that, for a period of ten (10) years commencing on the date this Order becomes final:

- A. Respondents shall neither enter into nor enforce any agreement that restricts the ability of any person (as defined in Section 1(a) of the Clayton Act, 15 U.S.C. § 12(a)) that acquires any Supermarket, any leasehold interest in any Supermarket, or any interest in any retail location used as a Supermarket on or after January 1, 2001, in Baldwin County or Washington County, Georgia to operate a Supermarket at that site if such Supermarket was formerly owned or operated by Respondents.

- B. Respondents shall not remove any fixtures or equipment from a property owned or leased by Respondents in Baldwin County or Washington County, Georgia that is no longer in operation as a Supermarket, except (1) prior to and as part of a sale, sublease, assignment, or change in occupancy of such Supermarket; (2) to relocate such fixtures or equipment in the ordinary course of business to any other Supermarket owned or operated by Respondents.

VI.

IT IS FURTHER ORDERED that:

- A. Within thirty (30) days after the date this Order becomes final and every thirty (30) days thereafter until the Respondents have fully complied with the provisions of Paragraphs II and III of this Order, Respondents shall submit to the Commission verified written reports setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with Paragraphs II and III of this Order. Respondents shall include in their reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of this Order, including a description of all substantive contacts or negotiations for the divestitures and the identity of all parties contacted. Respondents shall include in their reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning completing the obligations; and
- B. One (1) year from the date this Order becomes final, annually for the next nine (9) years on the anniversary of the date this Order becomes final, and at other times as the Commission may require, Respondents shall file verified written reports with the Commission setting forth in detail the manner and form in which they have complied and are complying with this Order.

VII.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate Respondents, such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of this Order.

VIII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request with reasonable notice to Respondents made to their principal United States office, Respondents shall permit any duly authorized representative of the Commission:

- A. Access, during office hours of Respondents and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession or under the control of Respondents relating to compliance with this Order; and
- B. Upon five (5) days' notice to Respondents and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

By the Commission.

Donald S. Clark
Secretary

ISSUED: January 16, 2002

APPENDIX I

[Non-Public]

APPENDIX II

[Non-Public]

T A B

#2

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)	
)	
)	Docket No. C-4027
KONINKLIJKE AHOLD N.V.,)	
a corporation,)	
)	
and)	
)	
BRUNO'S SUPERMARKETS, INC.,)	
a corporation.)	
)	
)	

**AFFIDAVIT IN SUPPORT OF PETITION TO REOPEN
AND MODIFY DECISION AND ORDER**

I, Brian W. Hotarek, hereby state as follows:

1. I am Executive Vice President of Ahold U.S.A., Inc., a Maryland corporation and an indirect, wholly-owned subsidiary of Koninklijke Ahold N.V. ("Ahold"), a Respondent in the above captioned matter.
2. I submit this affidavit, in support of Ahold's Petition to Reopen and Modify the Commission's January 16, 2002 Decision and Order (the "Petition") in the above captioned matter.
3. I have read and am familiar with the Commission's Decision and Order (the "Order") in the above-captioned matter and Ahold's Petition. (The Order is attached to the Petition as Exhibit 1).
4. The information in this affidavit is based on my personal knowledge.
5. Pursuant to an Agreement and Plan of Merger dated as of September 4, 2001, by and among Ahold; New Bronco Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Ahold U.S.A., Inc.¹; Bruno's Supermarkets, Inc., a Delaware corporation ("Bruno's Supermarkets"); and Elway Advisors, LLC, as stockholders'

¹ On December 5, 2005, Ahold U.S.A., Inc., a Delaware corporation, merged with and into Ahold U.S.A. Holdings, Inc., a Maryland corporation. On December 5, 2005, Ahold U.S.A. Holdings, Inc. changed its name to Ahold U.S.A., Inc.

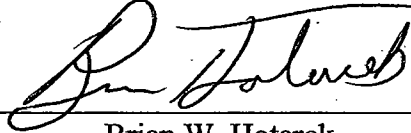
representative, Ahold acquired 100% of the outstanding voting securities of Bruno's Supermarkets for approximately \$500 million in cash by merger of New Bronco with and into Bruno's Supermarkets, with Bruno's Supermarkets continuing as the surviving corporation. As a result of the merger, Ahold held 100% of the outstanding voting securities of Bruno's Supermarkets.

6. The Commission initiated an investigation of the proposed merger. On December 7, 2001, the Commission and the Respondents entered into an Agreement Containing Consent Orders. The Commission voted 5-0 to accept the consent order and place a copy on the public record. After the 30-day public comment period expired, the Commission voted 5-0 to issue the Order on January 16, 2002.
7. Heretofore, Ahold has complied with all provisions of the Order.
8. The terms of the Order required Ahold to divest two of its BI-LO Supermarkets in Georgia, one in Baldwin County and one in Washington County. The store in Baldwin County was sold to The Kroger Co. and the store in Washington County was sold to Winn-Dixie Stores, Inc.
9. Pursuant to Paragraphs II.A. and II.B. of the Order, and as reported in Ahold's 30-day Report filed with the Commission and dated February 15, 2002, Ahold divested all assets as required by the Order.
10. Pursuant to Paragraph IV.A. of the Order, for a period of ten (10) years from the date the Order became final (January 16, 2002), Ahold is required to provide advance written notice to the Commission prior to acquiring any ownership or leasehold interest in any facility that has operated as a Supermarket within six months of the date of such proposed acquisition in Baldwin County or Washington County, Georgia. Ahold has made no such acquisition.
11. Pursuant to Paragraph IV.B. of the Order, for a period of ten (10) years from the date the Order became final (January 16, 2002), Ahold is required to provide advance written notice to the Commission prior to acquiring any stock, share capital, equity, or other interest in any entity that owns any interest in or operates any Supermarket, or owned a Supermarket within six months prior to such proposed acquisition in Baldwin County or Washington County, Georgia. Ahold has made no such acquisition.
12. Pursuant to Paragraph V.A. of the Order, Ahold may neither enter into nor enforce any agreement that restricts the ability of any person that acquires any Supermarket, any leasehold interest in any Supermarket, or any interest in any retail location used as a Supermarket on or after January 1, 2001 in Baldwin County or Washington County, Georgia to operate a Supermarket at that site if such Supermarket was formerly owned or operated by Ahold. Ahold has neither entered into nor enforced any such agreements.
13. Pursuant to Paragraph V.B. of the Order, Ahold shall not remove any fixtures or equipment from a property owned or leased by Ahold in Baldwin County or Washington County, Georgia, that is no longer in operation as a Supermarket, except (1) prior to and as part of a sale, sublease, assignment, or change in occupancy of such Supermarket; or

- (2) to relocate such fixtures or equipment in the ordinary course of business to any other Supermarket owned or operated by Ahold. Ahold is in full compliance with Paragraph V.B. of the Order.
14. Pursuant to Paragraph VI.B. of the Order, Ahold is required to submit a verified written annual report. The most recent verified written annual report was submitted to the Commission by Ahold on January 13, 2006. The reporting requirement under the Order continues until 2012. Ahold is in full compliance with Paragraph VI.B of the Order.
 15. Pursuant to Paragraph VII. of the Order, Ahold is required to notify the Commission thirty days in advance of certain proposed changes to Ahold's business organization.
 16. [Redacted] Ahold entered into a Limited Liability Company Interest Purchase Agreement ("the Agreement") with Lone Star U.S. Acquisitions, LLC, a Delaware limited partnership ("Lone Star"), whereby Ahold, through Ahold U.S.A. Holdings, Inc., a Maryland corporation, n/k/a Ahold U.S.A., Inc., agreed to sell all of the outstanding limited liability company interests in BI-LO Holding, LLC, a Delaware limited liability company.
 17. Included within BI-LO Holding, LLC at the time of the transaction were BI-LO, LLC, Bruno's Supermarkets, Inc., and Bruno's, Inc. These were the operating companies for Ahold's Supermarkets throughout the Southeastern United States. Specifically, Ahold no longer owns or operates Supermarkets in Baldwin County or Washington County, Georgia – the relevant areas subject to the compliance obligations of the Order.
 18. [Redacted]
 19. Ahold complied with Paragraph VII. of the Order when, on [Redacted] it notified the Commission of a proposed change in the corporate Respondents. Ahold is in full compliance with Paragraph VII.
 20. [Redacted] Ahold submitted its Hart-Scott-Rodino filing in connection with this transaction, and received early termination of the waiting period on January 11, 2005. The parties to the Agreement closed the transaction on January 31, 2005.
 21. Ahold believes that the changed conditions of fact have rendered the Order, as to Ahold, unnecessary.
 22. Ahold also believes that the requested modification of the Order is in the public interest because the Order in whole as to Ahold is no longer needed. Ahold no longer has assets in the relevant areas subject to the compliance obligations of the Order. These changes have eliminated the need for the Order as to Ahold.
 23. Due to the foregoing, Ahold respectfully requests the Commission to vacate the Order as to Ahold.

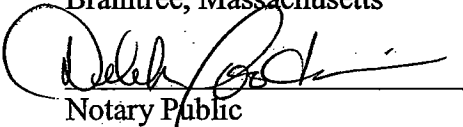
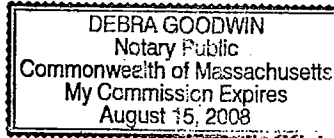
24. Competition would not be adversely affected by the proposed modifications.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.



Brian W. Hotarek

Subscribed and sworn to before me,
this 4th day of April, 2006
Braintree, Massachusetts



Notary Public

My commission expires: 8/15/2008

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Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

For Release: December 7, 2001

Preserving Competition, FTC Consent Order Allows Koninklijke Ahold NV Purchase of Bruno's Supermarkets, Inc.

Ahold Would Be Required to Sell its BI-LO Supermarkets in Two Georgia Towns

Under the terms of a proposed consent order approved by the Federal Trade Commission and announced today, Koninklijke Ahold NV (Ahold), a global food service distributor and retailer headquartered in the Netherlands, would be permitted to acquire all of the outstanding voting stock of Bruno's Supermarkets, Inc. (Bruno's), a large supermarket chain in the southeastern United States, for approximately \$500 million, while agreeing to remedy the likely anticompetitive effects of the transaction as proposed. Prior to completing the stock purchase, Ahold would be required to divest two of its BI-LO supermarkets in Georgia, one in Milledgeville and one in Sandersville. Under the terms of the proposed order, Ahold will sell its Milledgeville store to The Kroger Co. (Kroger) and its Sandersville store to Winn-Dixie Stores, Inc. (Winn-Dixie). In addition, Ahold would be required to ensure that both stores remain viable prior to their sale and to sell the supermarkets and related assets within 10 business days after consummating its merger with Bruno's.

"The merger would reduce the number of major supermarket competitors in Milledgeville and Sandersville, which already have high concentration," said Joe Simons, Director of the FTC's Bureau of Competition. "The consent order approved by the Commission ensures that competition will be maintained in these two areas."

The Proposed Transaction

On September 4, 2001, Ahold and Bruno's signed an agreement under which the former would purchase all of the latter's voting securities through the merger of New Bronco Acquisition Corp., an indirect wholly owned subsidiary of Ahold, with Bruno's. Under the terms of the transaction, Bruno's will continue as the surviving corporation.

Bruno's Supermarkets currently operates 169 supermarkets in Alabama (123 stores), Georgia (25), Florida (16), and Mississippi (2) under the trade names Bruno's Fine Foods, Food World, Food Max, Food Fair, and Fresh Value. In addition, it operates 13 liquor stores and two gas stations. Ahold operates 1,300 U.S. food stores through its Ahold U.S.A., Inc. subsidiary under the trade names Giant, Stop & Shop, Tops, and BI-LO. In the southeastern United States, it owns and operates 294 BI-LO supermarkets, as well as a number of Golden Gallon convenience stores.

The Commission's Complaint

Related Documents:

"Promoting Competition, Protecting Consumers: A Plain English Guide to Antitrust Laws."

File No. 011 0247
Docket No. C-4027
In the Matter of Koninklijke Ahold N.V. and Bruno's Supermarkets, Inc.

[Agreement \[PDF 11K\]](#)
[Decision & Order \[PDF 30K\]](#)
[Analysis to Aid Public Comment \[PDF 14K\]](#)
[Complaint \[PDF 12K\]](#)
[Order to Maintain Assets \[PDF 15K\]](#)



According to the Commission's complaint, Ahold's purchase of Bruno's outstanding voting securities would violate Section 7 of the Clayton Act, as amended, and Section 5 of the FTC Act, as amended, by substantially reducing competition in the retail sale of food and grocery items in supermarkets in or near the towns of Milledgeville and Sandersville, Georgia, through the elimination of direct competition between supermarkets owned and controlled by Ahold and those owned or controlled by Bruno's.

In addition, the complaint contends that the proposed acquisition would increase the likelihood that Ahold will unilaterally exercise market power in each of the relevant markets and also increase the likelihood of, or facilitate, collusion or coordinated interaction among the remaining supermarket firms in each market. Each of these effects, the Commission contends, increases the likelihood that the prices of food, groceries, or services will increase, and that the quality and selection of food, groceries, or services will decrease in the geographic markets defined by the areas in and around the two towns. The complaint further alleges that entry by a new competitor within these geographic markets would not be timely, likely, or sufficient to prevent the anticompetitive effects of the transaction as proposed.

Terms of the Consent Order

Under the terms of the proposed consent order, Ahold would be required to divest two BI-LO supermarkets, one in Milledgeville and one in Sandersville, Georgia, within 10 business days of its merger with Bruno's. In each community, Ahold owns only one supermarket. Both stores would be sold to up-front buyers approved by the Commission, with the Milledgeville BI-LO divested to Kroger and the Sandersville BI-LO divested to Winn-Dixie. Both Kroger and Winn-Dixie currently operate supermarkets in the southeastern United States and, according to the Commission, are well-qualified to maintain the assets as competitive and financially viable following their purchase from Ahold.

If Ahold consummates the divestitures during the public comment period regarding the consent agreement with the Commission, and if, at the time the FTC decides to make the order final, it notifies Ahold that Kroger or Winn-Dixie is not an acceptable acquirer (or that the relevant manner of divestiture is not acceptable), Ahold would be required to immediately rescind the transaction in question and divest the assets to another buyer within three months of the date the order becomes final. The new acquirer selected by Ahold would be subject to prior FTC approval, as would the manner of divestiture. If a Commission-approved buyer is unable to take or keep possession of any of the supermarkets identified for divestiture, the FTC could appoint a trustee to satisfy the order's divestiture requirements. A trustee could also be appointed to divest specific assets if Ahold does not complete the divestitures required by the order. In such a case, the order would also allow the Commission to seek civil penalties against Ahold for not complying with its terms.

In addition, the proposed order contains an Order to Maintain Assets, under which Ahold would be required to maintain the stores to be sold as viable, competitive, and marketable pending their divestiture to Kroger and Winn-Dixie. Ahold also would be prohibited from acquiring any supermarkets (or supermarket interests) in the counties that include Milledgeville and Sandersville for 10 years, without first providing prior notice to the FTC. Ahold may, however, build new supermarkets in these

areas or lease facilities not operated as supermarkets within the previous six months.

For 10 years after entering into the agreement, however, Ahold would be prohibited from entering into or enforcing any agreement that restricts the ability of any person acquiring any location used as a supermarket (or interest thereof) to operate a supermarket at that site if the site was formerly owned or operated by Ahold or Bruno's in the defined counties. This and other more-detailed terms of the order are designed to allow new entry by competitors to occur with a few impediments as possible.

Finally, the proposed order contains reporting requirements for 10 years designed to ensure Ahold's compliance with its terms.

The Commission vote to accept the consent order and place a copy on the public record was 5-0. The order will be subject to public comment for 30 days, until January 7, 2002, after which the Commission will decide whether to make it final. Comments should be sent to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Ave., N.W., Washington, D.C. 20580.

NOTE: A consent agreement is for settlement purposes only and does not constitute an admission of a law violation. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of \$11,000.

The FTC's Bureau of Competition seeks to prevent business practices that restrain competition. The Bureau carries out its mission by investigating alleged law violations and, when appropriate, recommending that the Commission take formal enforcement action. To notify the Bureau concerning particular business practices, call or write the Office of Policy and Evaluation, Room 394, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Ave, N.W., Washington, D.C. 20580, Electronic Mail: antitrust@ftc.gov; Telephone (202) 326-3300. For more information on the laws that the Bureau enforces, the Commission has published "Promoting Competition, Protecting Consumers: A Plain English Guide to Antitrust Laws," which can be accessed at <http://www.ftc.gov/bc/compguide/index.htm>.

MEDIA CONTACT:

Mitchell J. Katz,
Office of Public Affairs
202-326-2161

STAFF CONTACT:

Susan Huber,
Bureau of Competition
202-326-3331

(FTC File No. 011-0247)

(<http://www.ftc.gov/opa/2001/12/koninklijke.htm>)

LAB #4

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

<p style="text-align: center;">In the Matter of</p> <p>KONINKLIJKE AHOLD NV, a corporation;</p> <p style="text-align: center;">and</p> <p style="text-align: center;">BRUNO'S SUPERMARKET, INC., a corporation.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. C-4027</p>
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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 Koninklijke Ahold NV ("Ahold") has entered into an agreement to acquire 100% of the outstanding voting securities of respondent Bruno's Supermarket, Inc. ("Bruno's"), 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

PARAGRAPH ONE: 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 non-food items such as soaps, detergents, paper goods, other household products, and health and beauty aids.

Koninklijke Ahold NV

PARAGRAPH TWO: Respondent Ahold is a corporation organized, existing, and doing business under and by virtue of the laws of The Netherlands, with its office and principal place of business located at Albert Heijnweg 1, 1507 EH Zaandam, The Netherlands.

PARAGRAPH THREE: Respondent Ahold, through Ahold USA, Inc., BI-LO Holdings, LLC Inc.; Giant-Carlisle Holding, LLC Entities; Giant Food, Inc. n/k/a Ahold U.S.A. Holdings, Inc.; The Stop & Shop Supermarket Company; and Tops Markets, LLC; its wholly-owned domestic subsidiaries, is, and at all times relevant herein has been, engaged in the operation of supermarkets in Alabama, Connecticut, the District of Columbia, Delaware, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia. Ahold and its wholly-owned domestic subsidiaries operate over 1,000 supermarkets, including 294 BI-LO stores, in these states under the BI-LO, Giant, MARTIN'S, Stop & Shop, and Tops Friendly Market trade names. Ahold had \$27.8 billion in total United States sales in fiscal year 2000.

PARAGRAPH FOUR: Respondent Ahold 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.

Bruno's Supermarkets, Inc.

PARAGRAPH FIVE: Respondent Bruno'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 800 Lakeshore Parkway, Birmingham, Alabama.

PARAGRAPH SIX: Respondent Bruno's is, and at all times relevant herein has been, engaged in the operation of supermarkets in Alabama, Georgia, Florida and Mississippi. Bruno's operates approximately 169 supermarkets under the Bruno's, Food World, FoodMax, Food Fair and Fresh Value trade names. Bruno's had \$1.6 billion in total sales for the fiscal year ending January 27, 2001.

PARAGRAPH SEVEN: Respondent Bruno'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.

Acquisition

PARAGRAPH EIGHT: On or about September 4, 2001, Ahold, New Bronco Acquisition Corp., a Delaware corporation and an indirect wholly owned subsidiary of Ahold, Bruno's, and Elway

Advisors, LLC, as stockholder's representative, entered into an Agreement and Plan of Merger. Pursuant to this Agreement, Ahold will acquire all of the outstanding voting securities of Bruno's for approximately \$500 million in cash by merger of New Bronco with and into Bruno's Supermarkets, with Bruno's Supermarkets continuing as the surviving corporation. As a result of the merger, Ahold will hold 100% of the voting securities of Bruno's.

Trade and Commerce

PARAGRAPH NINE: 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.

PARAGRAPH TEN: Supermarkets provide a distinct set of products and services for consumers who desire one-stop shopping 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.

PARAGRAPH ELEVEN: Supermarkets compete primarily with other supermarkets that provide one-stop shopping for food and grocery products. Supermarkets base their food and grocery prices primarily on the prices 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.

PARAGRAPH TWELVE: 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 enables one-stop shopping for food and grocery products.

PARAGRAPH THIRTEEN: 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 Sandersville, Georgia and Milledgeville, Georgia.

Market Structure

PARAGRAPH FOURTEEN: The Sandersville, Georgia and Milledgeville, Georgia relevant markets are highly concentrated, whether measured by the Herfindahl-Hirschman Index (commonly referred to as "HHI") or by two-firm and four-firm concentration ratios. The acquisition would

substantially increase concentration in each market. Ahold and Bruno's would have a combined market share of greater than 50% in each geographic market. The post-acquisition HHI in Milledgeville would exceed 5400 and, in Sandersville, would exceed 5500.

Entry Conditions

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

Actual Competition

PARAGRAPH SIXTEEN: Ahold and Bruno's are actual and direct competitors in Sandersville, Georgia and Milledgeville, Georgia.

Effects

PARAGRAPH SEVENTEEN: 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 Ahold and Supermarkets owned or controlled by Bruno's;
- b. by increasing the likelihood that Ahold will unilaterally exercise market power; and
- c. 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

PARAGRAPH EIGHTEEN: The Agreement and Plan of Merger between and among Ahold, New Bronco Acquisition Corp., Bruno's, and Elway Advisors, LLC, violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and the proposed acquisition would, if consummated, 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 Seventh day of December, 2001, issues its complaint against said respondents.

By the Commission.

**Benjamin I. Berman
Acting Secretary**

SEAL:

1 AB #5

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

In the Matter of)
)
KONINKLIJKE AHOLD N.V.,)
a corporation;)
)
and)
)
BRUNO'S SUPERMARKETS, INC.,)
a corporation.)
)
)

File No. 011 0247

AGREEMENT CONTAINING CONSENT ORDERS

The Federal Trade Commission ("Commission") having initiated an investigation of the proposed acquisition of 100% of the outstanding voting securities of Bruno's Supermarkets, Inc. ("Bruno's") by Koninklijke Ahold N.V. ("Ahold"), and it now appearing that Ahold and Bruno's, hereinafter sometimes referred to as "Proposed Respondents," are willing to enter into this Agreement Containing Consent Orders ("Consent Agreement") to divest certain assets and providing for other relief:

IT IS HEREBY AGREED by and between Proposed Respondents, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Ahold is a corporation organized, existing and doing business under and by virtue of the laws of the Netherlands, with its office and principal place of business located at Albert Heijnweg 1, 1507 EH Zaandam, The Netherlands.
2. Proposed Respondent Bruno'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 800 Lakeshore Parkway, Birmingham, AL.
3. Proposed Respondents admit all the jurisdictional facts set forth in the draft of Complaint here attached.

4. Proposed Respondents waive:
 - (a) any further procedural steps;
 - (b) the requirement that the Commission's Order to Maintain Assets and Decision and Order, both attached hereto and made a part hereof, contain a statement of findings of fact and conclusions of law;
 - (c) all rights to seek judicial review or otherwise challenge or contest the validity of the Order to Maintain Assets or the Decision and Order entered pursuant to this Consent Agreement; and
 - (d) any claim under the Equal Access to Justice Act.
5. Because there may be interim competitive harm, and because divestiture or other relief resulting from a proceeding challenging the legality of the proposed merger might not be possible, or might be less than an effective remedy, the Commission may issue its Complaint and an Order to Maintain Assets in this matter at any time after it accepts the Consent Agreement for public comment.
6. Proposed Respondents shall submit within thirty (30) days of the date this Consent Agreement is signed by Proposed Respondents an initial report, pursuant to Commission Rule 2.33, 16 C.F.R. § 2.33, and subsequent reports every thirty (30) days thereafter until the Decision and Order becomes final or the required divestitures are accomplished, whichever is earlier, signed by Proposed Respondents, setting forth in detail the manner in which Proposed Respondents have complied and will comply with the Order to Maintain Assets and the Decision and Order. Such reports will not become part of the public record unless and until the accompanying Consent Agreement and Decision and Order are accepted by the Commission for public comment.
7. This Consent Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Consent Agreement is accepted by the Commission, it, together with the Complaint contemplated thereby, will be placed on the public record for a period of thirty (30) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Consent Agreement and so notify Proposed Respondents, in which event it will take such action as it may consider appropriate, or issue or amend its Complaint (in such form as the circumstances may require) and issue its Decision and Order, in disposition of the proceeding.
8. This Consent Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the draft Complaint here attached, or that the facts as alleged in the draft Complaint, other than jurisdictional facts, are true.

9. **This Consent Agreement contemplates that, if it is accepted by the Commission, the Commission may (1) issue and serve its Complaint corresponding in form and substance with the draft of Complaint here attached, (2) issue and serve its Order to Maintain Assets, and (3) make information public with respect thereto. If such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission may, without further notice to the Respondents, issue the attached Decision and Order containing the following order to divest in disposition of the proceeding. When final, the Decision and Order and the Order to Maintain Assets shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Decision and Order and Order to Maintain Assets shall become final upon service. Delivery of the Complaint, the Decision and Order, and the Order to Maintain Assets to Proposed Respondent Ahold's counsel's offices and to Proposed Respondent Bruno's offices at the addresses specified in this Consent Agreement by any means specified in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), shall constitute service. Proposed Respondents waive any right they may have to any other manner of service. Proposed Respondents also waive any right they may otherwise have to service of any Appendices incorporated by reference into the Decision and Order, and agree that they are bound to comply with and will comply with the Decision and Order to the same extent as if they had been served with copies of the Appendices, where Proposed Respondents are already in possession of copies of such Appendices. The Complaint may be used in construing the terms of the Decision and Order and Order to Maintain Assets, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order, Order to Maintain Assets, or the Consent Agreement may be used to vary or contradict the terms of the Decision and Order or Order to Maintain Assets.**
10. **By signing this Consent Agreement, Proposed Respondents represent and warrant that they can comply with the provisions of the attached Decision and Order and the Order to Maintain Assets, and that all parents, subsidiaries, affiliates, and successors necessary to effectuate the full relief contemplated by this Consent Agreement are parties to the Consent Agreement and are bound thereby as if they had signed this Consent Agreement and were made parties to this proceeding and to the orders.**
11. **Proposed Respondents have read the draft Complaint, Decision and Order, and Order to Maintain Assets contemplated hereby. Proposed Respondents understand that once the Decision and Order and Order to Maintain Assets have been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Decision and Order and Order to Maintain Assets. Proposed Respondents agree to comply with the terms of the Decision and Order and Order to Maintain Assets, as applicable, from the date they sign this Consent Agreement. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order and Order to Maintain Assets, as applicable, after they become final.**

Signed this _____ day of November, 2001.

KONINKLIJKE AHOLD N.V.

By: _____
Cees van der Hoeven
President and Chief Executive Officer
Koninklijke Ahold N.V.

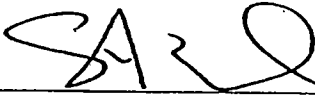
J. Mark Gidley, Esq.
White & Case
601 Thirteenth Street, N.W.
Suite 600 South
Washington, D.C. 20005-3807
Counsel for Koninklijke Ahold N.V.

BRUNO'S SUPERMARKETS, INC.


By: _____
James A. Demme
President and Chief Executive Officer
Bruno's Supermarkets, Inc.

Michael H. Byowitz, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Counsel for Bruno's Supermarkets, Inc.

**FEDERAL TRADE COMMISSION,
BUREAU OF COMPETITION**

By: 

Susan Huber
Attorney



Richard Liebskind
Assistant Director

Joseph J. Simons
Director
Bureau of Competition

Signed this _____ day of November, 2001.

KONINKLIJKE AHOLD N.V.

FEDERAL TRADE COMMISSION,
BUREAU OF COMPETITION

By: _____
Cees van der Hoeven
President and Chief Executive Officer
Koninklijke Ahold N.V.

By: _____
Susan Huber
Attorney

J. Mark Gidley, Esq.
White & Case
601 Thirteenth Street, N.W.
Suite 600 South
Washington, D.C. 20005-3807
Counsel for Koninklijke Ahold N.V.

Richard Liebskind
Assistant Director

BRUNO'S SUPERMARKETS, INC.

Joseph J. Simons
Director
Bureau of Competition

By: James A. Demme
James A. Demme
President and Chief Executive Officer
Bruno's Supermarkets, Inc.

Michael H. Byowitz, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Counsel for Bruno's Supermarkets, Inc.

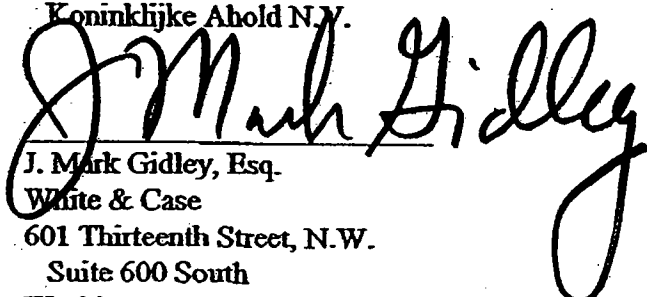
Signed this _____ day of November, 2001.

KONINKLIJKE AHOLD N.V.

**FEDERAL TRADE COMMISSION,
BUREAU OF COMPETITION**

By: _____
Cees van der Hoeven
President and Chief Executive Officer
Koninklijke Ahold N.V.

By: _____
Susan Huber
Attorney



J. Mark Gidley, Esq.
White & Case
601 Thirteenth Street, N.W.
Suite 600 South
Washington, D.C. 20005-3807
Counsel for Koninklijke Ahold N.V.

Richard Liebskind
Assistant Director

Joseph J. Simons
Director
Bureau of Competition

BRUNO'S SUPERMARKETS, INC.

By: _____
James A. Demme
President and Chief Executive Officer
Bruno's Supermarkets, Inc.

Michael H. Byowitz, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Counsel for Bruno's Supermarkets, Inc.

Signed this _____ day of November, 2001.

KONINKLIJKE AHOLD N.V.

**FEDERAL TRADE COMMISSION,
BUREAU OF COMPETITION**

By: _____
Cees van der Hoeven
President and Chief Executive Officer
Koninklijke Ahold N.V.

By: _____
Susan Huber
Attorney


J. Mark Gidley, Esq.
White & Case
601 Thirteenth Street, N.W.
Suite 600 South
Washington, D.C. 20005-3807
Counsel for Koninklijke Ahold N.V.

Richard Liebskind
Assistant Director

BRUNO'S SUPERMARKETS, INC.

Joseph J. Simons
Director
Bureau of Competition

By: _____
James A. Demme
President and Chief Executive Officer
Bruno's Supermarkets, Inc.



Michael H. Byowitz, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Counsel for Bruno's Supermarkets, Inc.

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Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

For Your Information: January 18, 2002

Related Documents

Commission denial of petition for modification or interpretation of injunctive decree:

Docket No. 9171
*In the Matter of Superior Court
Trial Lawyers' Association*

The FTC has denied a petition by the **Superior Court Trial Lawyers' Association** seeking a modification or interpretation of a Commission order to limit its scope regarding price fixing. In its petition, received by the Commission on September 20, 2001, and available on the FTC's Web site, the Association sought to modify an order issued by the FTC in *Superior Court Trial Lawyers' Association*; Docket No. 9171. The order prohibits collective action among the Association's members for the purpose of "fixing, increasing, stabilizing or otherwise affecting in any way" the level of fees paid by the District of Columbia Superior Court to court-appointed lawyers.

Letter Denying Petition for
Reopening and Modification,
or Interpretation, of the
Commission Order:

*Koninklijke Ahold N.V. and
Bruno's Supermarkets, Inc.*
File No. 011 0247, Docket No.
C-4027

The modification requested by the Association would have allowed its members practicing before the D.C. Courts to discuss a possible collective work stoppage addressing the timing of payment - if, for example, the D.C. Courts suspend payment for services rendered - "without the possibility that their conduct would be questioned by the Commission under the antitrust laws." The Association contended that such activities would be "exclusively pro-competitive," as the proposed consultations would not involve any effort to raise or lower the price of the lawyers' services. The petition requested, therefore, that the Commission limit the scope of the order to allow such collective action.



The Commission stated that the proposed collective boycott would - inasmuch as it affected the timing and terms of payment of legal fees - "affect the level of fees for such legal services" as well, and that such action "was squarely rejected when the Supreme Court condemned such conduct as *per se* unlawful." Accordingly, the Commission disagreed with the Association's assessment that the proposed collective conduct would be pro-competitive. The Commission noted, however, that the Association is free, pursuant to the order and the First Amendment, to petition the government concerning payment procedures and further noted that the District of Columbia Court system was subject to the Prompt Payments Act.

The Commission vote to deny the petition and place a copy on the public record was 5-0. (FTC Docket No. D-9171; staff contact is Daniel P. Ducore, Bureau of Competition; 202-326-2526.)

Commission approval of final consent order:

Following a public comment period, the Commission has approved a final consent order in the matter concerning **Royal Ahold NV and Bruno's Supermarkets, Inc.** The vote to approve the final order was 5-0. (FTC File No. 011-0247; staff contact is Susan Huber, Bureau of Competition, 202-326-3331; see press release dated December 7, 2001.)

Copies of the documents mentioned in this release are available from the FTC's Web site at <http://www.ftc.gov> and also from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Call toll-free: 1-877-FTC-HELP.

MEDIA CONTACT:

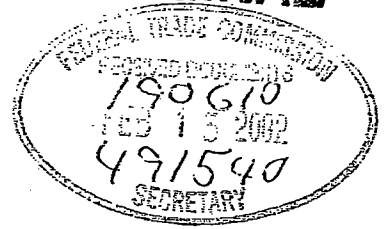
Office of Public Affairs

202-326-2180

(<http://www.ftc.gov/opa/2002/01/fyi0205.htm>)

1 A B # 7

ORIGINAL



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

In the Matter of

**KONINKLIJKE AHOLD N.V.,
a corporation,**

and

**BRUNO'S SUPERMARKETS, INC.,
a corporation.**

Docket No. C-4027

**COMPLIANCE REPORT
SUBMITTED PURSUANT TO
DECISION AND ORDER**

Pursuant to the Federal Trade Commission (the "Commission") Decision and Order ("Order") issued as final in the above-referenced matter on January 16, 2002, Koninklijke Ahold N.V. and Bruno's Supermarkets, Inc. (collectively "Ahold") submit this verified written report in accordance with paragraph VI.A. of the Order. Paragraph VI.A. provides that:

Within thirty (30) days after the date this Order becomes final and every thirty (30) days thereafter until the Respondents have fully complied with the provisions of Paragraphs II and III of this Order, Respondents shall submit to the Commission verified written reports setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with Paragraphs II and III of this Order. Respondents shall include in their reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of this Order, including a description of all substantive contacts or negotiations for the divestitures and the identity of all parties contacted. Respondents shall include in their reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning completing the obligations.

This report sets forth the manner and form in which Ahold has complied with Paragraphs II and III of the Order.

DIVESTITURES PURSUANT TO PARAGRAPH II OF THE ORDER

1. The Proposed Respondents consummated Ahold's acquisition of the outstanding voting securities of Bruno's Supermarket, Inc. pursuant to the "Agreement and Plan of Merger Dated as of September 4, 2001 By and Among Koninklijke Ahold N.V., New Bronco Acquisition Corp., Bruno's Supermarkets, Inc. and Elway Advisors, LLC, as Stockholder's Representatives" ("Acquisition") on December 11, 2001.
2. Paragraph II.A. provides that:

[n]ot later than ten (10) Business Days after the date on which the Acquisition is consummated, Respondents shall divest, absolutely and in good faith, the Milledgeville Assets as an ongoing business to Kroger pursuant to and in accordance with the Kroger Agreement (which agreement shall not vary or contradict, or be construed to vary or contradict, the terms of this Order), and such agreement, if approved by the Commission, is incorporated by reference into this Order and made part hereof as non-public Appendix I. Any failure by Respondents to comply with all terms of any Divestiture Agreement related to the Milledgeville Assets shall constitute a failure to comply with this Order.
3. In accordance with Paragraph II.A of the Order, and pursuant to an Agreement of Purchase and Sale of Assets and Assignment of Lease by and between BI-LO, LLC ("BI-LO") and The Kroger Co. ("Kroger") made and entered into on November 14, 2001 ("Kroger Agreement"), Ahold divested the Milledgeville Assets to Kroger on December 14, 2001, which was within ten (10) business days of consummating the Acquisition as required by Paragraph II.A. of the Order.
4. Paragraph II.B. provides that:

[n]ot later than ten (10) Business Days after the date on which the Acquisition is consummated, Respondents shall divest, absolutely and in good faith, the Sandersville Assets as an ongoing business to Winn-Dixie pursuant to and in

accordance with the Winn-Dixie Agreement (which agreement shall not vary or contradict, or be construed to vary or contradict, the terms of this Order), and such agreement, if approved by the Commission, is incorporated by reference into this Order and made part hereof as non-public Appendix II. Any failure by Respondents to comply with all terms of any Divestiture Agreement related to the Sandersville Assets shall constitute a failure to comply with this Order.

5. In accordance with Paragraph II.B of the Order and pursuant to an Agreement of Purchase and Sale of Assets and Assignment of Lease by and between BI-LO, LLC ("BI-LO") and Winn-Dixie Stores, Inc. ("Winn-Dixie") made and entered into on November 13, 2001 ("Winn-Dixie Agreement"), Ahold divested the Sandersville Assets to Winn-Dixie on December 17, 2001, which was within ten (10) business days of consummating the Acquisition as required by Paragraph II.B. of the Order.

PARAGRAPH III OF THE ORDER NO LONGER APPLIES TO A HOLD

6. Paragraph III.A. of the Order provides in part that:

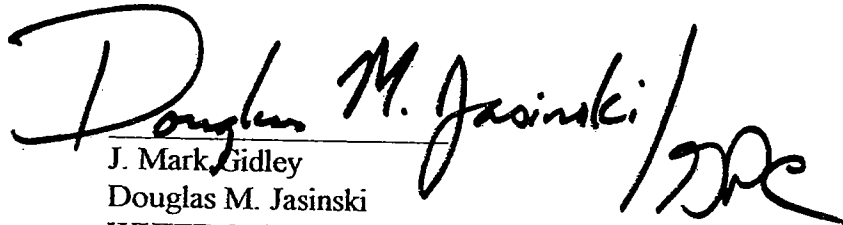
[i]f Respondents have not fully complied with the obligations specified in Paragraph II of this Order, the Commission may appoint a trustee or trustees to divest the relevant Assets To Be Divested pursuant to Paragraph II in a manner that satisfies the requirements of Paragraph II.
7. As detailed above, Ahold has complied fully with the obligations in Paragraph II of the Order and divested the Assets To Be Divested pursuant to Paragraph II in a manner that satisfies the requirements of Paragraph II and thus, the obligations of Paragraph III of the Order no longer apply to Ahold.

VERIFICATION

Pursuant to Section VI.A. of the Order, on behalf of Ahold, this Annual Report has been verified by Steven L. Ortega, Executive Vice President and Chief Financial Officer, BI-LO, LLC and the verification is attached hereto.

DATED: February 15, 2002

Respectfully submitted,

A large, stylized handwritten signature in black ink that reads "Douglas M. Jasinski". To the right of the signature is a large, stylized monogram that appears to be "JMC".

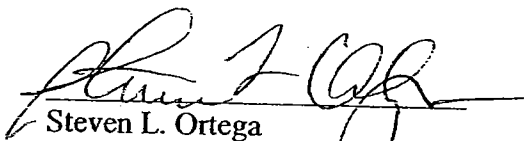
J. Mark Gidley
Douglas M. Jasinski
WHITE & CASE LLP
Suite 600 South
601 13th St., N.W.
Washington, D.C. 20005
(202) 626-3600

Attorneys for Respondents

VERIFICATION

This response has been prepared under my supervision from records of BI-LO, LLC, and is true and correct to the best of my knowledge and belief.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.



Steven L. Ortega
Executive Vice President and
Chief Financial Officer

Subscribed and sworn before me in the County of
Greenville, South Carolina, this 12th day of
February, 2002.

Kimberly A. Parks
(Notary Public)

SEAL:

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EXHIBIT 8
REDACTED

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EXHIBIT 9
REDACTED

LAB # 10

EXHIBIT 10

REDACTED

LAB # 11



Ahold agrees to sell BI-LO and Bruno's to Lone Star Funds

Major milestone achieved in EUR 2.5 billion divestment program

Zaandam, The Netherlands, December 23, 2004 – Ahold today announced it has entered into an agreement to sell its U.S. retail subsidiaries BI-LO and Bruno's to an affiliate of the Lone Star Funds for total cash proceeds of up to USD 660 million. BI-LO and Bruno's will retain all of their debt obligations and other liabilities including capitalized lease obligations, although Ahold may be contingently liable under existing guarantees in respect of a portion of such capitalized lease obligations.

The final purchase price is subject to customary price adjustments. Closing is anticipated in the first quarter of 2005 and is subject to the fulfillment of customary closing conditions, including antitrust approval. The closing is not subject to any financing condition. At closing, Ahold will receive cash proceeds of USD 560 million and a letter of credit for USD 100 million will be placed in escrow. Within 18 months of closing, Ahold will be entitled to receive the balance of the purchase price of up to USD 100 million depending upon BI-LO and Bruno's achieving certain targets relating to dispositions of inventory, real estate and other assets.

BI-LO and Bruno's are two of the leading food retail chains in the Southeastern region of the United States with a combined store count of over 450 supermarkets and combined 2003 net sales of approximately EUR 4.7 billion.

"This divestment comes at the end of a year of transition for Ahold and marks a major milestone along our Road to Recovery," said Ahold President and CEO Anders Moberg. "Divesting BI-LO and Bruno's is part of our strategy to optimize our portfolio and strengthen our financial position by reducing debt. Our U.S. retail business will be fully focused on our other prominent supermarket operations, Stop & Shop / Giant-Landover and Giant-Carlisle / Tops. We committed ourselves to a caring and careful divestment of BI-LO and Bruno's in the best interests of our associates and shareholders. This has been achieved and our 'Road to Recovery' is on track," he concluded. Lone Star Funds, based in Dallas, Texas, is a leading U.S. private investment company that manages more than USD 13 billion in assets and investments in North America, Europe and Asia.

Ahold acquired BI-LO, headquartered in Mauldin, South Carolina, in 1977. The company operates 287 stores in South Carolina, North Carolina, Georgia and Tennessee. BI-LO employs approximately 23,000 associates. Ahold acquired Bruno's, based in Birmingham, Alabama, in 2001. The company operates 168 stores in Alabama, Florida, Georgia and Mississippi. Bruno's employs approximately 11,500 associates.

Certain statements in this press release are "forward-looking statements" within the meaning of U.S. federal securities laws. These forward-looking statements include, but are not limited to, statements regarding Ahold's intention to complete the divestment of BI-LO and Bruno's, Ahold's ability to consummate the transaction, statements relating to the total cash proceeds Ahold expects to receive, Ahold's expectations as to the timing of the closing and the payment of the balance of the purchase price that may occur after the closing depending on the companies achieving certain disposition targets, the contribution of the BI-LO and Bruno's sale to Ahold's debt reduction and statements as to the achievement and progress of Ahold's Road to Recovery program. These forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results to differ materially from future results expressed or implied by the forward-looking statements. Important factors that could cause actual results to differ materially from the information set forth in these forward-looking statements include, but are not limited to Ahold's ability to complete the divestment of BI-LO and Bruno's, the effect

of any adjustments to the proceeds Ahold will receive in the sale, any inability to obtain, or delays in obtaining, antitrust approval, the actions of government and law enforcement agencies, the inability to satisfy, or delays in satisfying, closing conditions, BI-LO and Bruno's ability to achieve certain disposition targets, Ahold's liquidity needs exceeding expected levels, the ability of Ahold to implement successfully its plans and strategies, the diversion of management's attention in implementing plans, the effect of general economic conditions, actions of competitors and increases in competition in the markets in which Ahold's subsidiaries and joint ventures operate, and other factors discussed in Ahold's public filings. Many of these factors are beyond Ahold's ability to control or predict. Given these uncertainties, readers are cautioned not to place undue reliance on the forward-looking statements, which only speak as of the date of this press release. Ahold does not undertake any obligation to release publicly any revisions to these forward-looking statements to reflect events or circumstances after the date of this press release or to reflect the occurrence of unanticipated events or circumstances, except as may be required under applicable securities laws. Outside The Netherlands, Koninklijke Ahold N.V., being its registered name, presents itself under the name of "Royal Ahold" or simply "Ahold."

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TRANSACTION GRANTED EARLY TERMINATION

ET DATE	TRANS NUM	ET REQ STATUS	PARTY NAME
11-JAN-05	20050359	G	Onex Partners LP
		G	Laidlaw International, Inc.
		G	American Medical Response, Inc.
		G	EmCare Holdings Inc.
	20050387	G	Schawk, Inc.
		G	KAGT Holdings, Inc.
		G	KAGT Holdings, Inc.
	20050411	G	The Veritas Capital Fund II, L.P.
		G	Computer Sciences Corporation
		G	DynCorp International, LLC
		G	DynCorp International Asset Corp.
	20050421	G	Lone Star Fund V (U.S.), L.P.
		G	Koninklijke Ahold N.V.
		G	ARP, etc.
		G	BI-LO, LLC
		G	Golden Gallon Holding LLC
		G	v/s BI-LO Brands, Inc.
		G	Bruno's, Inc., Bruno's Supermarkets, Inc.
	20050437	G	CenterPoint Energy, Inc.
		G	American Electric Power Company, Inc.
		G	AEP Texas Central Company



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Ahold completes sale of BI-LO and Bruno's to Lone Star

January 31 2005

Divestment program nearly completed.

Zaandam, The Netherlands, January 31, 2005 - Ahold today announced it has completed the sale of its U.S. retail subsidiaries BI-LO and Bruno's to an affiliate of Lone Star Funds.

Ahold and Lone Star Funds successfully closed the transaction, which was announced on December 23, 2004. Completion was subject to the fulfillment of customary closing conditions, including antitrust approval. BI-LO and Bruno's are two of the leading food retail chains in the southeastern region of the United States with a combined store count of over 450 supermarkets and combined 2003 net sales of approximately EUR 4.7 billion.

"We are pleased to be able to complete the divestment of BI-LO and Bruno's to Lone Star as planned," said Ahold President and CEO Anders Moberg. "This transaction is part of our strategy to optimize our portfolio and strengthen our financial position by reducing debt. We are nearing completion of our divestment program ahead of time and are well on our way along the Road to Recovery," he concluded.

Lone Star Funds, based in Dallas, Texas, is a leading U.S. private investment company that manages more than USD 13 billion in assets and investments in North America, Europe and Asia.

Ahold acquired BI-LO, headquartered in Mauldin, South Carolina, in 1977. The company operates 287 stores in South Carolina, North Carolina, Georgia and Tennessee. BI-LO employs approximately 23,000 associates. Ahold acquired Bruno's, based in Birmingham, Alabama, in 2001. The company operates 168 stores in Alabama, Florida, Georgia and Mississippi. Bruno's employs approximately 11,500 associates.

Certain statements in this press release are "forward-looking statements" within the meaning of U.S. federal securities laws. These forward-looking statements include, but are not limited to, statements regarding the status and timing of the divestment program, the contribution of the BI-LO and Bruno's sale to Ahold's debt reduction and the progress of Ahold's Road to Recovery program. These forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results to differ materially from future results expressed or implied by the forward-looking statements. Important factors that could cause actual results to differ materially from the information set forth in these forward-looking statements include, but are not limited to, Ahold's ability to complete other divestments that are part of the divestment program, any inability to obtain, or delays in obtaining, antitrust approval, the actions of government and law enforcement agencies, the inability to satisfy, or delays in satisfying, closing conditions in connection with such other divestments, Ahold's liquidity needs exceeding expected levels, the ability of Ahold to implement successfully its plans and strategies, the diversion of management's attention in implementing plans, the effect of general economic conditions, actions of competitors and increases in competition in the markets in which Ahold's subsidiaries and joint ventures operate, and other factors discussed in Ahold's public filings. Many of these factors are beyond Ahold's ability to control or predict. Given these uncertainties, readers are cautioned not to place undue reliance on the forward-looking statements, which only speak as of the date of this press release. Ahold does not undertake any obligation to release publicly any revisions to these forward-looking statements to reflect events or circumstances after the date of this press release or to reflect the occurrence of unanticipated events or circumstances, except as may be required under applicable securities laws. Outside The Netherlands, Koninklijke Ahold N.V., being its registered name, presents itself under the name of "Royal Ahold" or simply "Ahold."
