

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

	)	
In the Matter of	)	
	)	
<b>WINN-DIXIE STORES, INC.,</b>	)	<b>Docket No. C-4001</b>
a corporation.	)	

**COMPLAINT**

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission ("Commission"), having reason to believe that respondent Winn-Dixie Stores, Inc. ("Winn-Dixie") has entered into an agreement to acquire certain assets from Jitney-Jungle Stores of America, Inc. ("Jitney-Jungle"), an entity controlled by Bruckmann, Rosser, Sherrill & Co., L.P., 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:

**Definitions**

1. For the purposes of this complaint:
  - (a) "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.
  - (b) "Jitney-Jungle" means Jitney-Jungle Stores of America, Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Mississippi, with its office and principal place of business located at 1770 Ellis Avenue, Suite 200,

Jackson, Mississippi 39202, and includes its subsidiaries, divisions, groups, and affiliates controlled by Jitney-Jungle, including Interstate Jitney Jungle Stores, Inc., Pump and Save, Inc., P&S Operations, Inc., Supermarket Cigarette Sales, Inc., Delchamps, Inc., and Southern Jitney Jungle Company, Inc.

#### Winn-Dixie Stores, Inc.

2. Respondent Winn-Dixie is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 5050 Edgewood Court, Jacksonville, Florida 32254.

3. Respondent Winn-Dixie is, and at all times relevant herein has been, engaged in the operation of supermarkets in 14 states and the Bahama Islands. Winn-Dixie operates 1,079 supermarkets under the Winn-Dixie trade names. Winn-Dixie had approximately \$13.7 billion in total sales for the fiscal year that ended on June 30, 2000.

4. Respondent Winn-Dixie 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

5. On or about October 29, 2000, Winn-Dixie entered into an "Agreement for Purchase and Sale of Retail Grocery Stores By and Between Interstate Jitney Jungle Stores, Inc., Pump and Save, Inc., P&S Operations, Inc., Supermarket Cigarette Sales, Inc., Jitney-Jungle Stores of America, Inc., Delchamps, Inc., and Southern Jitney Jungle Company, Inc. and Winn-Dixie Stores, Inc." pursuant to which Winn-Dixie will acquire 72 supermarkets, 32 gas stations and two liquor stores from the Jitney-Jungle entities. The supermarkets, gas stations and liquor stores are located in Alabama, Florida, Louisiana, and Mississippi. The total value of the proposed acquisition is approximately \$85 million plus the value of inventory.

6. Interstate Jitney Jungle Stores, Inc., Pump and Save, Inc., P&S Operations, Inc., Supermarket Cigarette Sales, Inc., Jitney-Jungle Stores of America, Inc., Delchamps, Inc., and Southern Jitney Jungle Company, Inc. each filed a voluntary petition for reorganization relief pursuant to Chapter 11 of the United States Code, 11 U.S.C. § 101 et seq. as amended ("The Bankruptcy Code") on October 12, 1999. The proposed transaction is subject to approval by the United States Bankruptcy Court for the Eastern District of Louisiana, Docket No. 99-17191.

#### Trade and Commerce

7. 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.
8. Supermarkets provide a distinct set of products and services for consumers who desire to one-stop shop for food and grocery products. Supermarkets carry a full line and wide selection of both food and nonfood products (typically more than 10,000 different stock-keeping units ("SKUs")) as well as a deep inventory of those SKUs in a variety of brand names and sizes. In order to accommodate the large number of food and nonfood products necessary for one-stop shopping, supermarkets are large stores that typically have at least 10,000 square feet of selling space.
9. Supermarkets compete primarily with other supermarkets that provide one-stop shopping for food and grocery products. Supermarkets base their food and grocery prices on the prices primarily of food and grocery products sold at nearby supermarkets. Supermarkets do not regularly price-check food and grocery products sold at other types of stores and do not significantly change their food and grocery prices in response to prices at other types of stores. Most consumers shopping for food and grocery products at supermarkets are not likely to shop elsewhere in response to a small price increase by supermarkets.
10. Retail stores other than supermarkets that sell food and grocery products, such as neighborhood "mom & pop" grocery stores, limited assortment stores, convenience stores, specialty food stores (*e.g.*, seafood markets, bakeries, etc.), club stores, military commissaries, and mass merchants, do not effectively constrain prices at supermarkets. These stores operate significantly different retail formats. None of these stores offers a supermarket's distinct set of products and services that enable consumers to one-stop shop for food and grocery products.
11. The relevant sections of the country (*i.e.*, the geographic markets) in which to analyze the acquisition described herein include, among others, the areas in and near the following cities and towns:
  - a. Niceville, Florida;
  - b. Gulf Breeze, Florida;
  - c. Destin, Florida; and
  - d. the Gulfport-Biloxi area of Mississippi, which consists of the parts of Hancock, Harrison, and Jackson counties that include Waveland, Bay Saint Louis, Pass Christian, Long Beach, Gulfport, Biloxi, D'Iberville, and Ocean Springs, and narrower markets contained therein, including Gulfport and Biloxi.

#### Market Structure

12. The post-merger relevant markets are all highly concentrated, whether measured by the Herfindahl-Hirschman Index (commonly referred to as "HHI") or by the four-firm concentration ratio. The acquisition would substantially increase concentration in each market. The post-acquisition HHIs in the geographic markets range from approximately 2,400 to 10,000.

#### Entry Conditions

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

#### Actual Competition

14. Winn-Dixie and Jitney-Jungle are actual and direct competitors in the relevant line of commerce and the relevant sections of the country.

#### Effects

15. 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 Winn-Dixie and supermarkets owned or controlled by Jitney-Jungle;
- b. by increasing the likelihood that Winn-Dixie 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

16. The October 29, 2000, "Agreement for Purchase and Sale of Retail Grocery Stores By and Between Interstate Jitney Jungle Stores, Inc., Pump and Save, Inc., P&S Operations, Inc., Supermarket Cigarette Sales, Inc., Jitney-Jungle Stores of America, Inc., Delchamps, Inc., and Southern Jitney Jungle Company, Inc. and Winn-Dixie Stores, Inc." violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal

Trade Commission Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this fourteenth day of February, 2001, issues its complaint against said respondent.

By the Commission.

SEAL:

Donald S. Clark  
Secretary