

IN THE MATTER OF

SCHWEGMANN GIANT SUPER MARKETS, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-3584. Complaint, June 2, 1995--Decision, June 2, 1995*

This consent order requires, among other things, the Louisiana-based corporation to divest, within twelve months, seven stores in the New Orleans area to Commission-approved purchasers, and requires the respondent, for ten years, to obtain Commission approval before acquiring an interest in a supermarket, or another entity that operates a supermarket, in the relevant area.

Appearances

For the Commission: *Ronald B. Rowe, Arthur Nolan and William Baer.*

For the respondent: *Scott Whittaker and Nelea Absher, Stone, Pigman, Walther, Wittman & Hutchinson, New Orleans, LA.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission ("Commission"), having reason to believe that respondent Schwegmann Giant Super Markets, Inc. ("Schwegmann"), a corporation subject to the jurisdiction of the Commission, has acquired certain assets of National Holdings, Inc. and certain affiliates ("National"), 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, 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:

"Supermarket" means a full-line retail grocery store with annual sales of at least two million dollars 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.

SCHWEGMANN GIANT SUPER MARKETS, INC.

2. Respondent Schwegmann is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its office and principal place of business located at 5300 Old Gentilly Road, New Orleans, Louisiana.

3. Respondent Schwegmann is, and at all times relevant herein has been, engaged in the operation of supermarkets in Louisiana.

4. Respondent Schwegmann 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.

5. John F. Schwegmann is the Chief Executive Officer and majority shareholder of Schwegmann Giant Super Markets, Inc., with his office and principal place of business at 5300 Old Gentilly Road, New Orleans, Louisiana.

ACQUISITION

6. On or about November 23, 1994, Schnuck Markets, Inc. ("Schnucks") entered into an agreement with National to acquire all of the supermarkets owned and operated by National in Illinois, Missouri, Louisiana, Mississippi, and Alabama, and Schnucks entered into an agreement with Schwegmann whereby Schwegmann agreed to purchase, concurrent with the closing of the transaction between National and Schnucks, approximately 28 National

supermarkets located in Louisiana, Mississippi, and Alabama, which operate under the "Canal Villere," "That Stanley!," and "The Real Superstore" trade names.

TRADE AND COMMERCE

7. Relevant lines of commerce in which to analyze the acquisition described herein are the retail sale of food and grocery products in supermarkets, and narrower markets contained therein.

8. Relevant sections of the country in which to analyze the acquisition described herein are the metro New Orleans, Louisiana area, which consists of the parishes of Orleans, Jefferson, and St. Bernard, and narrower markets contained therein.

MARKET STRUCTURE

9. The retail sale of food and grocery products in supermarkets in the relevant sections of the country is concentrated, whether measured by the Herfindahl-Hirschmann Index (commonly referred to as "HHI") or by two-firm and four-firm concentration ratios.

ENTRY CONDITIONS

10. Entry into the retail sale of food and grocery products in supermarkets in the relevant sections of the country is difficult and would not be timely, likely, or sufficient to prevent anticompetitive effects in the relevant sections of the country.

ACTUAL COMPETITION

11. Prior to the acquisition described herein, Schwegmann and National were actual competitors in the relevant lines of commerce and sections of the country.

EFFECTS

12. The effect of the acquisition may be substantially to lessen competition in the relevant lines 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 Schwegmann and supermarkets owned or controlled by National;
- b. By increasing the likelihood that Schwegmann 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

13. The acquisition by Schwegmann of assets of National violates 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.

DECISION AND ORDER

The Federal Trade Commission ("Commission"), having initiated an investigation of the proposed acquisition by Schnuck Markets, Inc. ("Schnucks") of certain assets owned and operated by National Holdings, Inc. and certain affiliates ("National") in Illinois, Missouri, Louisiana, Mississippi, and Alabama, and Schnucks having entered into an agreement whereby Schwegmann Giant Super Markets, Inc. ("Schwegmann"), the respondent, agreed to purchase, concurrent with the closing of the transaction between National and Schnucks, approximately 28 National supermarkets located in Louisiana, Mississippi, and Alabama, and the respondent, having been furnished 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 respondent with violations of the Clayton Act and Federal Trade Commission Act;

Respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an

admission by respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, 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 had reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Schwegmann is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business at 5300 Old Gentilly Road, New Orleans, Louisiana.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, 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. "*Respondent*" or "*Schwegmann*" means John F. Schwegmann and Schwegmann Giant Super Markets, Inc., its predecessors, subsidiaries, divisions, and groups and affiliates controlled by Schwegmann Giant Super Markets, Inc., their successors and assigns, and their directors, officers, employees, agents, and representatives.

B. "*Assets to be divested*" means the supermarket assets described in paragraph II.A. of this order.

C. "*Commission*" means the Federal Trade Commission.

D. "*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.

E. "*New Orleans metro area*" means the area consisting of Jefferson, Orleans, and St. Bernard parishes in Louisiana.

II.

It is further ordered, That:

A. Respondent shall divest, absolutely and in good faith, within twelve months from the date this order becomes final:

1. That Stanley supermarket located at 315 E. Judge Perez Drive (store no. 79), Chalmette, LA;

2. Canal Villere supermarket located at 4726 Paris Avenue (store no. 24), New Orleans, LA;

3. Canal Villere supermarket located at 2125 Caton Street (store no. 25), New Orleans, LA;

4. That Stanley supermarket located at 4223 Chef Menteur Highway (store no. 8), New Orleans, LA;

5. That Stanley supermarket located at 9319 Jefferson Highway (store no. 33), River Ridge, LA;

6. Canal Villere supermarket located at 5245 Veterans Memorial Boulevard (store no. 93), Metairie, LA; and

7. Canal Villere supermarket located at 135 Robert E. Lee Boulevard (store no. 83), New Orleans, LA.

The assets to be divested shall include the supermarket business operated, and all assets, leases, properties, business and goodwill, tangible and intangible, utilized in the supermarket operations at the locations listed above, but shall not include those assets consisting of

or pertaining to any Schwegmann or National trade names, trade dress, trade marks, service marks, computer software, vehicles and other assets except fixtures also used or to be used by respondent at locations other than those listed above in connection with the Schwegmann or National business operations.

B. Respondent shall divest the assets to be divested only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture is to ensure the continuation of the assets to be divested 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.

C. Pending divestiture of the assets to be divested, respondent shall take such actions as are necessary to maintain the viability, competitiveness, and marketability of the assets to be divested to comply with paragraphs II. and III. of this order and to prevent the destruction, removal, wasting, deterioration, or impairment of the assets to be divested except in the ordinary course of business and except for ordinary wear and tear.

D. Respondent shall comply with all the terms of the Asset Maintenance Agreement attached to this order and made a part hereof as Appendix I. The Asset Maintenance Agreement shall continue in effect until such time as all assets to be divested have been divested as required by this order.

III.

It is further ordered, That:

A. If respondent has not divested, absolutely and in good faith and with the Commission's prior approval, the assets to be divested within twelve months from the date this order becomes final, the Commission may appoint a trustee to divest any of the assets to be divested. In the event that the Commission or the Attorney General brings an action pursuant to Section 5(l) of the Federal Trade Commission Act, 15 U.S.C. 45(l), or any other statute enforced by the Commission, respondent shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a 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 trustee, pursuant to Section 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the respondent to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to paragraph III.A. of this order, respondent shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after written notice by the staff of the Commission to respondent of the identity of any proposed trustee, respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the assets to be divested.

3. Within ten (10) days after appointment of the trustee, respondent shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestitures required by this order.

4. The trustee shall have twelve (12) months from the date the Commission or court approves the trust agreement described in paragraph III. B. 3. to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this 12-month period only one (1) time for one (1) year.

5. The trustee shall have full and complete access to the personnel, books, records, and facilities related to the assets to be

divested or to any other relevant information, as the trustee may request. Respondent shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondent shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any delays in divestiture caused by respondent 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 trustee, by the court.

6. The 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 respondent's absolute and unconditional obligation to divest at no minimum price. The divestitures shall be made in the manner and to the acquirer or acquirers as set out in paragraph II. of this order; provided, however, if the trustee receives *bona fide* offers for an asset to be divested from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest such asset to the acquiring entity or entities selected by respondent from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the respondent, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the assets to be divested to satisfy paragraph II. of this order.

8. Respondent shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the 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 liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute 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 trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the assets to be divested.

12. The trustee shall report in writing to respondent and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV.

It is further ordered, That, for a period of ten (10) years from the date this order becomes final, respondent shall not, without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any ownership or leasehold interest in any facility that has operated as a supermarket within six (6) months of the date of such proposed acquisition in the New Orleans metro area.

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 of such proposed acquisition in the New Orleans metro area.

Provided, however, that these prohibitions shall not apply to the construction of new facilities by respondent or the acquisition of or leasing of a facility that has not operated as a supermarket within six (6) months of respondent's offer to purchase or lease.

V.

It is further ordered, That, for a period of ten (10) years commencing on the date this order becomes final:

A. Respondent 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)) acquiring any supermarket owned or operated by respondent, any leasehold interest in any supermarket, or any interest in that portion of any retail location used as a supermarket on or after January 1, 1995 in the New Orleans metro area to operate a supermarket at that site; provided however, that nothing in this paragraph shall prevent respondent from entering into or enforcing any agreement requiring its approval of any sublease, assignment, or change in occupancy, which approval shall not be unreasonably withheld; provided further that use of a site for the operation of a supermarket shall not be a basis for withholding such approval.

B. Respondent shall not remove any equipment from a supermarket owned or operated by respondent in the New Orleans metro area prior to a sale, sublease, assignment, or change in occupancy, except for replacement or relocation of such equipment in or to any other supermarket owned or operated by respondent in the ordinary course of business, or as part of any negotiation for a sale, sublease, assignment, or change in occupancy of such supermarket.

VI.

It is further ordered, That:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until respondent has fully complied with the provisions of paragraphs II. or III. of this order, respondent shall submit to the Commission verified written reports setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with paragraphs II. and III. of this order. Respondent shall include in its compliance 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 the order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondent shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One year (1) 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, respondent shall file verified written reports with the Commission setting forth in detail the manner and form in which it has complied and is complying with this order.

VII.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent 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 respondent that may affect compliance obligations arising out of the order.

VIII.

It is further ordered, That, for the purpose of determining or securing compliance with this order, respondent shall permit any duly authorized representative of the Commission:

A. Upon five days' written notice to respondent, access, during office hours and in the presence of counsel for respondent, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of respondent relating to any matters contained in this order; and

B. Upon five days' written notice to respondent and without restraint or interference from it, to interview respondent or officers, directors, or employees of respondent in the presence of counsel for respondent relating to any matters contained in this order.

APPENDIX I

ASSET MAINTENANCE AGREEMENT

This Asset Maintenance Agreement ("Agreement") is by and between Schwegmann Giant Super Markets, Inc. ("Schwegmann"), a corporation organized under the laws of the State of Louisiana, with its principal offices located at 5300 Old Gentilly Road, New Orleans, Louisiana, and the Federal Trade Commission ("Commission"), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.* (collectively "the Parties").

PREMISES

Whereas, Schwegmann, pursuant to an agreement dated November 23, 1994, agreed to purchase certain assets of National Holdings, Inc. and certain affiliates (hereinafter "Acquisition"); and

Whereas, the Commission is now investigating the Acquisition to determine if it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the agreement containing consent order, the Commission is required to place it on the public record for a period of sixty (60) days for public comment and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an agreement is not reached preserving the *status quo ante* of the assets to be divested as described in paragraph II.A. of the agreement containing consent order ("Assets") during the period prior to their divestitures, when those Assets will be in the hands of Schwegmann, that any divestiture resulting from any administrative proceeding challenging the legality of the Acquisition might not be possible, or might produce a less than effective remedy; and

Whereas, the Commission is concerned that prior to divestiture to the acquirer, it may be necessary to preserve the continued viability and competitiveness of the Assets; and

Whereas, the purpose of this Agreement and of the consent order is to preserve the Assets pending the divestiture to the acquirer approved by the Federal Trade Commission under the terms of the

order, in order to remedy any anticompetitive effects of the Acquisition; and

Whereas, Schwegmann entering into this Agreement shall in no way be construed as an admission by Schwegmann that the Acquisition is illegal; and

Whereas, Schwegmann understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws, or the Federal Trade Commission Act by reason of anything contained in this Agreement;

Now, therefore, in consideration of the Commission's agreement that, unless the Commission determines to reject the consent order, it will not seek further relief from the parties with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement and the consent order annexed hereto and made a part thereof, and, in the event the required divestiture is not accomplished, to appoint a trustee to seek divestiture of the Assets, the Parties agree as follows:

TERMS OF AGREEMENT

1. Schwegmann agrees to execute, and upon its issuance to be bound by, the attached consent order. The Parties further agree that each term defined in the attached consent order shall have the same meaning in this Agreement.

2. Unless the Commission brings an action to seek to enjoin the proposed Acquisition pursuant to Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. 53(b), and obtains a temporary restraining order or preliminary injunction blocking the proposed Acquisition, Schwegmann will be free to close the Acquisition after 11:59 p.m., March 8, 1995.

3. Schwegmann agrees that from the date this Agreement is accepted until the earliest of the dates listed in subparagraphs 3.a - 3.b it will comply with the provisions of this Agreement:

a. Three business days after the Commission withdraws its acceptance of the consent order pursuant to the provisions of Section 2.34 of the Commission's Rules; or

b. On the day the divestiture set out in the consent order has been completed.

4. From the time Schwegmann acquires the Assets until the earliest of the dates listed in subparagraphs 3.a - 3.b, Schwegmann shall maintain the viability, competitiveness and marketability of the Assets, and shall not cause the wasting or deterioration of the Assets, nor shall it sell, transfer, encumber or otherwise impair their marketability or viability.

5. Should the Commission seek in any proceeding to compel Schwegmann to divest itself of the Assets or to seek any other injunctive or equitable relief, Schwegmann shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has not sought to enjoin the Acquisition. Schwegmann also waives all rights to contest the validity of this Agreement.

6. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to Schwegmann to its principal offices, Schwegmann shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of Schwegmann, in the presence of counsel for Schwegmann, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Schwegmann relating to compliance with this Agreement; and

b. Without restraint or interference from them, to interview officers or employees of Schwegmann, who may have counsel present, regarding any such matters.

7. This Agreement shall not be binding until approved by the Commission.

Complaint

119 F.T.C.

IN THE MATTER OF

SCHNUCK MARKETS, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3585. Complaint, June 8, 1995--Decision, June 8, 1995

This consent order requires, among other things, the Missouri-based corporation to divest 24 stores in the St. Louis area to Commission-approved purchasers, and requires the respondent, for ten years, to obtain Commission approval before acquiring an interest in a supermarket, or another entity that operates a supermarket, in the relevant area.

Appearances

For the Commission: *Ronald B. Rowe, Arthur J. Nolan, Jim Fishkin and Marc Schneider.*

For the respondent: *James Rill, Chris McAvoy and Judy Oldham, Collier, Shannon, Rill & Scott, Washington, D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission ("Commission"), having reason to believe that respondent Schnuck Markets, Inc. ("Schnucks"), a corporation subject to the jurisdiction of the Commission, has acquired certain assets of National Holdings, Inc. and certain affiliates ("National"), 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, 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, the following definitions shall apply: