$225-Million Suit, Filed Against Gallo, Alleges 'Vertical' Control of Market

By HENRY WEINSTEIN

Special to The New York Times

SAN FRANCISCO, Jan. 2—A $225-million antitrust suit was filed in Federal District Court here today against the E.&J. Gallo Winery, by far the nation's largest vintner.

The suit, filed by three farm workers and three consumers, alleges that Gallo, which has estimated sales of $250-million a year according to the suit, illegally controlled prices in the low-cost wine market.

The class action suit charges that Gallo controls the domestic wine industry in a "vertical" fashion. Barry Winograd, a local attorney, charged that Gallo and several subsidiary companies monopolize the popularly priced market by restrictive practices against growers, distributors and consumers.

Injunction Sought

Besides damages, the suit asks for injunctive relief, and requests that Gallo and its various subsidiary corporations, business affiliates and operations be subjected to a court order requiring divestitures in order to prevent recurrence of the violations alleged.

Dan Solomon, communications director of the Gallo Winery, said, "we haven't seen the suit yet. But based on what we heard about it from the news media it is absolutely groundless. It is another example of the United Farm Workers irresponsible publicity-seeking efforts." The three worker plaintiffs are members of the U.F.W., although the union itself is not a plaintiff.

"The wine industry is strictly regulated by Federal and state agencies and we abide by those rules," Mr. Solomon added.

Mr. Winograd, one of the plaintiffs' attorneys, said Gallo discriminates against grape growers under long-term contracts by setting artificially low prices for some. Additionally, he contended that the hours and pay of farm workers are reduced to an amount less than free competitive conditions would allow and that Gallo limits its grape production in areas under contract.

The suit also contends that Gallo discriminates on distribution and retail levels, offering special price deals, exclusive territories and advertising help to favored consumers, then cutting off those purchasers who break Gallo's conditions. All of this results in artifically high prices to the consuming public, the suit charges.

Major Producer

The suit said Gallo also engaged in the following illegal acts:

¶Refusing to buy from and discriminating in price against growers who attempt to negotiate as part of grower associations.

¶Refusing to sell to distributors who have purchased wine from competing producers and threatening to terminate business, and doing so, dealers who deal with Gallo competitors.

¶Requiring Gallo distributors as a condition of being and remaining dealers, to purchase all or substantially all of their requirements from Gallo and both threatening to and actually cutting off dealers who fail to honor this condition.

¶Causing distributors to require retailers as a condition of purchasing certain Gallo wine products to purchase other Gallo products.

¶Engaging in a concerted false, deceptive and misleading campaign of advertising about the nature and quality of Gallo wine products.

Gallo markets wines under more than 50 labels, including such popular low-priced brands as Red Mountain; Ripple, Thunderbird, D. Boone's Farm Apple Wine and Madria-Madria Sangria.

According to industry sources, almost one of every three bottles of wine sold in the United States is produced by Gallo. These sources estimate that Gallo sold about 100 million of the 347.3 million gallons of wine distributed in the United States in 1973.

The company accounts for roughly 45 per cent of California's annual production of 243.4 million gallons, which in turn accounts for about 85 per cent of domestic production.

Until recently, Gallo was almost exclusively in the so-called "pop wine" field, but over the past year it has started to aggressively market higher-quality varietal wines including cabernets, colombards, and a sauvignon blanc.

Damages Sought

The class actions specifically ask for $15-million in damages on behalf of the three farm worker plaintiffs and $60-million for three consumer plaintiffs. Antitrust damage awards are automatically tripled for successful plaintiffs, thus the total damage potential in the suit is $225-million.

Although the suit was not brought on behalf of the U.F.W., which has been waging a boycott of Gallo's wines since mid-1973, five of the six attorneys for the plaintiffs are employed by the union.

Gallo had a contract with the U.F.W. from 1967 to 1973, but then switched to the Teamsters Union. Cesar Chavez, president of the Farm Workers union, charged the new pact was a sweetheart agreement, more beneficial to the company than the workers, and litigation is pending on it.

The New York Times
Published: January 3, 1975