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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 FEDERAL TRADE COMMISSION,

18 Plaintiff,

19 v.

20 SOUTHERN GLAZER'S WINE AND
21 SPIRITS, LLC,

22 Defendant.

23 **Case No. 8:24-cv-02684**

24 **COMPLAINT**

25 **REDACTED VERSION OF**
26 **DOCUMENT PROPOSED TO**
27 **BE FILED UNDER SEAL**

28 **ACTION SEEKING**
NATIONWIDE RELIEF

1 **I. NATURE OF THE CASE**

2 1. Defendant Southern Glazer’s Wine and Spirits, LLC (“Southern”) is
3 the largest coast-to-coast distributor of wine and spirits in the United States. For
4 years, Southern has violated the Robinson-Patman Act by selling wine and spirits
5 to small, independent “mom and pop” businesses at prices that are drastically
6 higher than the prices Southern charges large national and regional chains.
7 Southern’s discriminatory pricing practices have victimized independent and
8 family-owned neighborhood grocery stores, local convenience stores, and other
9 independent retailers across the country.

10 2. Southern has been the largest U.S. wholesaler of wine and spirits
11 every year for the past [REDACTED]. In 2023, Southern’s sales grew to approximately
12 \$26 billion, making it one of the ten largest privately held firms in the entire
13 country. At present, Southern sells one out of every three bottles of wine and
14 spirits purchased in the United States. In some states, Southern’s share of wine and
15 spirits sales is so large that Southern operates as the gatekeeper for the majority of
16 wine and spirits sold in those states.

17 3. As the single largest distributor of wine and spirits in the United
18 States, Southern has harmed small businesses by charging them far higher prices
19 than national or regional chains. For instance, Southern routinely charges small,
20 independent retailers as much as [REDACTED]% to [REDACTED]% more for the same bottles of certain
21 wine and spirits than national and regional chains in the exact same geographic
22 area. These independent retailers include neighborhood grocery stores, local
23 convenience stores, and independently owned wine and spirits shops.

24 4. In fact, discriminatory pricing is deeply engrained in Southern’s
25 business strategy. In one instance, Southern employees discussed [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]. In another

1 instance, [REDACTED]
2 [REDACTED]
3 [REDACTED].” In yet other instances, Southern [REDACTED]
4 [REDACTED]
5 [REDACTED].

6 5. These are not one-off instances of unlawful price discrimination.
7 Instead, internal Southern documents confirm that [REDACTED]
8 [REDACTED]
9 [REDACTED].” Moreover, this price discrimination
10 in favor of large national chains is not justified by differences in Southern’s cost of
11 distributing products to the different retailers, nor does it reflect bona fide attempts
12 to meet prices offered to chain retailers by competing distributors.

13 6. Southern’s pricing practices are paradigmatic violations of the
14 Robinson-Patman Act. Congress enacted the Robinson-Patman Act in 1936 to
15 address a concern that large sellers were favoring newly arisen large corporate
16 chains due to their greater purchasing power and granting them special prices,
17 exclusive discounts, and secret rebates that the sellers withheld from smaller rivals.
18 Congress feared that discriminatory prices on offer to only a small clique of
19 “Goliath” chain corporations would undercut, impede, and eliminate competition
20 from local, community-based businesses selling the same products. Ultimately, this
21 process would leave just “a few economic overlords to whom everybody else owes
22 economic allegiance.”¹

23 7. As the Supreme Court explained in the seminal case *FTC v. Morton*
24 *Salt Co.*, 334 U.S. 37, 43 (1948), “[t]he legislative history of the Robinson-Patman
25 Act makes it abundantly clear that Congress considered it to be an evil that a large
26

27 ¹ See Remarks of Rep. Wright Patman introducing H.R. No. 8442, 79 Cong. Rec. 9077 (June 11,
28 1935); Remarks of Rep. Sumners, Debate in the House of Representatives on H.R. No. 21 8442,
80 Cong. Rec. 8109 (May 27, 1936).

1 buyer could secure a competitive advantage over a small buyer solely because of
2 the large buyer's quantity purchasing ability. The Robinson-Patman Act was
3 passed to deprive a large buyer of such advantages except to the extent that a lower
4 price could be justified by reason of a seller's diminished costs due to quantity
5 manufacture, delivery or sale, or by reason of the seller's good faith effort to meet
6 a competitor's equally low price."

7 8. Accordingly, Section 2(a) of the Robinson-Patman Act requires a
8 level playing field, making it illegal for sellers to reduce competition by charging
9 higher prices to disfavored customers that purchase commodities of like grade and
10 quality, except where justified by differences in the cost of manufacture, sale, or
11 delivery resulting from the differing methods or quantities in which the
12 commodities are sold or delivered to those purchasers, changed market conditions,
13 or a good faith attempt to match a competing offer.

14 9. Small, independent retail businesses are a critical component of the
15 American economy and provide valuable alternatives to megastore chains—to the
16 great benefit of consumers, communities, and competition. For many years,
17 Southern has harmed, and it continues to harm, smaller grocery stores,
18 convenience stores, and other independent retailers by charging them higher prices
19 as compared to large national and regional chains.

20 10. The Federal Trade Commission brings this action (i) to ensure that
21 small, independent retailers served by Southern have access to the same discounts,
22 rebates, and pricing as the large chains that they compete directly against, except to
23 the extent justified by actual cost differences, changed conditions, or a good faith
24 effort to meet a competitor's equally low price, and (ii) to obtain an injunction
25 prohibiting further price discrimination by Southern against these small,
26 independent businesses. When Southern's unlawful conduct is remedied, large
27 corporate chains will face increased competition, which will safeguard continued
28 choice for American consumers.

1 **II. THE PARTIES**

2 11. Plaintiff Federal Trade Commission (“FTC”) is an independent
3 administrative agency of the United States government established, organized, and
4 existing pursuant to the FTC Act, 15 U.S.C. §§ 41 et seq., and with its principal
5 offices in Washington, D.C. The FTC is vested with authority and responsibility to
6 enforce, inter alia, Section 5 of the FTC Act, 15 U.S.C. § 45, and Section 2 of the
7 Clayton Act, 15 U.S.C. § 13, and is authorized under Section 13(b) of the FTC Act,
8 15 U.S.C. § 53(b), to initiate federal court proceedings to enjoin violations of any
9 law the FTC enforces, including Section 2 of the Clayton Act, as amended by the
10 Robinson-Patman Act. Since its enactment in 1936, the FTC has brought over
11 1,400 actions to enforce the Robinson-Patman Act.

12 12. Defendant Southern Glazer’s Wine and Spirits LLC is a Delaware
13 corporation with its principal place of business located in Miami, Florida.

14 13. Southern is the largest wholesale distributor of wine and spirits in the
15 country. The company was formed in 2016 from the merger of Southern Wine &
16 Spirits of America, Inc. and Glazer’s, Inc. Each company had grown through a
17 series of acquisitions of other distributors leading up to 2016, including Premier
18 Wine & Spirits, World Class Wines, Olinger Distributing, The Odom Corporation,
19 Star Distributors, Phoenix Wine & Spirits, Stoller Wholesale, Victor L.
20 Robilio Co., Sterling Distributing, Alliance Beverage of Alabama, and Alliance
21 Beverage of Mississippi. The merger of Southern Wine & Spirits and Glazer’s
22 gave the combined firm the largest service area of any U.S. wine and spirits
23 distributor, with operations in 44 states and the District of Columbia. The
24 company’s announced acquisition of Horizon Beverage Group will expand its
25 footprint into a total of 46 states.

26 14. Southern distributes over [REDACTED] items and over [REDACTED] different
27 stock keeping units (“SKUs”), including top selling spirits brands such as Patron
28 Silver Tequila, Jim Beam Bourbon, Jameson Irish Whiskey, Aviation Gin, Bacardi

1 Rum, Grey Goose Vodka, Tito’s Vodka, and Fireball Cinnamon Whiskey, and top-
2 selling wine brands like Kim Crawford, Josh Cellars, Duckhorn, Stella Rosa, and
3 La Marca.

4 15. Southern controls a significant share of wine and spirits sales in
5 numerous states. In Washington, for example, Southern estimated its share of
6 statewide sales at █████% for spirits and █████% for wine. Southern estimated its
7 share of statewide sales in Texas at █████% for spirits and █████% for wine, and in
8 California at █████% for spirits and █████% for wine.

9 **III. JURISDICTION AND VENUE**

10 16. This complaint is filed, and these proceedings are instituted under the
11 provisions of Section 2 of the Clayton Act, as amended by the Robinson-Patman
12 Act, 15 U.S.C. § 13, and Section 5 of the Federal Trade Commission Act,
13 15 U.S.C. § 45.

14 17. This Court has subject matter jurisdiction over this action pursuant to
15 Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), 28 U.S.C.
16 §§ 1331, 1337(a), and 1345.

17 18. This Court has personal jurisdiction over Southern because Southern
18 has the requisite constitutional contacts with the United States of America pursuant
19 to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b).

20 19. Southern’s general business practices and the unfair methods of
21 competition alleged herein are activities in or affecting “commerce” within the
22 meaning of Section 4 of the FTC Act, 15 U.S.C. § 44, and Sections 1 and 2 of the
23 Clayton Act, 15 U.S.C. §§ 12-13.

24 20. Southern is, and at all times relevant herein has been, a corporation, as
25 defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

26 21. Venue in this district is proper under 15 U.S.C. § 22; Section 13(b) of
27 the FTC Act, 15 U.S.C. § 53(b); and 28 U.S.C. §§ 1391(b), (c) and (d). Southern is
28 found, resides, transacts business, and/or has agents in California and in this

1 District, and a portion of the affected commerce described herein has been carried
2 out in California and in this District. Southern has a significant presence
3 throughout California, including in Southern California and this District. In 2022,
4 Southern sold over [REDACTED] different items to more than [REDACTED] off-premise retail
5 customers in Southern California, with sales totaling over \$ [REDACTED].

6 **IV. ROBINSON-PATMAN ACT**

7 22. Subject to certain defenses, the Robinson-Patman Act, 15 U.S.C.
8 § 13(a), makes it illegal for distributors and manufacturers to charge disfavored
9 customers higher prices than those charged to favored customers for commodities
10 of like grade and quality where the effect may be to lessen competition. This
11 suspect conduct is known in antitrust law as “price discrimination.”

12 23. Each wine and spirit sold by Southern is a commodity within the
13 meaning of Section 2(a) of the Robinson-Patman Act amendments of the Clayton
14 Act, 15 U.S.C. § 13(a).

15 **V. WINE AND SPIRITS INDUSTRY BACKGROUND**

16 24. Wine and spirits are generally sold in the U.S. through a non-
17 integrated distribution system regulated by each state and requiring three distinct
18 tiers. Producers in the first tier—including distillers, vintners, and importers
19 (collectively, “suppliers”)—may sell their wine and spirits only to distributors in
20 the second tier. Distributors then re-sell the wine and spirits to retailers in the third
21 tier, which then sell the products to consumers.

22 25. State regulatory regimes for wine and spirits fall into three broad
23 categories: open, franchise, and control. In open states, distributors buy wine and
24 spirits from suppliers and re-sell to retailers. Distributors also provide marketing
25 and promotional services to both suppliers and retailers. In franchise states,
26 distributors provide similar services, but once a supplier selects a distributor, the
27 relationship becomes a franchise as a matter of state law and can be terminated
28 only for cause. In control states, by contrast, suppliers sell directly to the state, and

1 state-run agencies handle distribution and often retail sales; traditional distributors
2 are limited to providing marketing services or serving as brokers for suppliers. This
3 lawsuit concerns Southern's conduct in open and franchise states.

4 26. In some or all of the open and franchise states in which Southern
5 operates, Southern serves as the distributor for many of the largest wine and spirits
6 suppliers, including Fifth Generation (Tito's Vodka), Constellation Brands
7 (Svedka Vodka, Kim Crawford Sauvignon Blanc), Sazerac Co. (Buffalo Trace
8 Bourbon, Fireball Cinnamon Whiskey), Pernod Ricard (Jameson Irish Whiskey,
9 Absolut Vodka), Bacardi U.S.A. (Patron Silver Tequila, Grey Goose Vodka,
10 Bacardi Rum), Diageo (Smirnoff Vodka, Aviation Gin), Suntory Global Spirits
11 (Jim Beam Bourbon, Maker's Mark Whiskey), Deutsch Family Wine & Spirits
12 (Josh Cellars), Delicato Family Wines (Noble Vines), E&J Gallo Winery (Clos du
13 Bois, Barefoot), and Treasury Wine Estates (19 Crimes). Southern typically enters
14 into exclusive distribution agreements with these suppliers that cover either a
15 single state or multiple states. Southern represents numerous suppliers' brands in
16 the same wine or spirits category in a state. For example, in Texas, Southern sells
17 and distributes [REDACTED] different vodka products from [REDACTED] different suppliers. In
18 Washington, Southern sells and distributes [REDACTED] different vodka products from [REDACTED]
19 different suppliers.

20 27. With limited exceptions, only retailers may sell to end consumers.
21 Retailers include state licensed businesses selling wine and spirits to consumers
22 either for on-premise consumption (e.g., bars or restaurants) or off-premise
23 consumption (e.g., grocery stores, convenience stores, or other retailers). This
24 lawsuit concerns Southern's sales to off-premise retailers. Southern generally
25 classifies off-premise customers as either chain retailers (including both national
26 and regional chain retailers) or independent retailers.

27 28. Southern generally sells products to retailers pursuant to [REDACTED]
28 [REDACTED]

1 [REDACTED]

2 [REDACTED].

3 29. Southern’s sales to off-premise retailers totaled approximately \$ [REDACTED]
4 [REDACTED] in 2022. Southern’s largest off-premise chain customers include large wine
5 and spirits retail chains like Total Wine, Binny’s, Spec’s, and BevMo, large
6 grocery chains like Kroger and Albertsons, national club stores like Costco and
7 Sam’s Club, and national megastore chains like Walmart and Target. Stores
8 operated by these large retail chains often draw customers from [REDACTED]

9 [REDACTED].

10 30. Southern’s chain customers often purchase products from Southern
11 through [REDACTED]

12 [REDACTED]

13 [REDACTED]. Southern assigns dedicated teams of employees
14 to support its key chain customers.

15 31. Southern’s independent off-premise customers differ in size. Some
16 operate a single store and others a handful of locations. They include neighborhood
17 grocery stores, local convenience stores, and local wine and spirits shops.

18 Independent retailers typically purchase wine and spirits directly from Southern in
19 one of three ways: placing orders directly with a Southern sales representative
20 assigned to their store and other stores, placing orders through Southern’s online
21 platform called “Proof,” or direct purchases picked up from a Southern warehouse.

22 In some states, independent retailers also are permitted by state law to participate
23 in purchasing cooperatives or “co-ops,” which allow them to pool their purchases
24 with other independent retailers. Even with the use of co-ops, however,
25 independent retailers often do not receive the same favorable prices offered to
26 large, favored retailers by Southern.

1 **VI. SOUTHERN’S UNLAWFUL PRICE DISCRIMINATION**

2 32. Beginning at least as early as 2018 and continuing through the
3 present, Southern has repeatedly discriminated in price between disfavored
4 independent purchasers and favored large chain purchasers of wine and spirits
5 located in both rural and urban areas throughout open and franchise states,
6 including but not limited to areas such as [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]. In
11 reasonably contemporaneous transactions, Southern charged significantly higher
12 prices for identical bottles of wine and spirits to disfavored independent retailers
13 than to favored large chain retailers that are in proximity to and in active
14 competition with the disfavored retailers for the resale of wine and spirits to the
15 same pool of end consumers. The favored large chain store and the disfavored
16 independently owned store are often located within just a few blocks to a few miles
17 of each other. These purchases often occurred within [REDACTED]
18 [REDACTED]. Favored chain retailers [REDACTED]
19 [REDACTED]
20 [REDACTED].

21 33. These disparities in pricing are not justified by differences in
22 Southern’s cost of providing goods to the large chain retailers and the independent
23 retailers—whether in terms of economies of scale or the logistics of delivering the
24 goods to different sized stores. Nor are these pricing differences supported by a
25 need for Southern to match prices being offered to chain customers by competing
26 distributors.

27 34. In short, Southern has engaged in a sustained course of discriminatory
28 pricing in violation of the Robinson-Patman Act. For example, Southern’s sales

1 invoice data shows that in 2022, independent retailers located in [REDACTED]

2 [REDACTED]
3 [REDACTED]
4 [REDACTED].

5 **A. Southern’s Mechanisms of Price Discrimination**

6 35. Southern’s discriminatory prices to favored chain customers are
7 effectuated through a variety of mechanisms. Those mechanisms include large,
8 high-volume quantity discounts, cumulative quantity discounts, [REDACTED],
9 scan rebates, [REDACTED], [REDACTED]
10 [REDACTED], and [REDACTED]
11 [REDACTED].

12 36. In some instances, Southern [REDACTED] accepts money or “discount
13 support” funding from suppliers in return for providing discriminatory pricing [REDACTED]
14 [REDACTED]. This money or funding is not
15 associated with any efficiency derived from the differing methods or quantities in
16 which the wine or spirits are manufactured, sold, or delivered to the favored large
17 chains.

18 37. The cumulative consequence of Southern’s strategies is that Southern
19 routinely charges higher prices to smaller independent businesses as compared to
20 megastore chains and other large national and regional retailers.

21 **1. Large Quantity Discounts**

22 38. Southern often sets the deepest available discounts at quantity
23 purchase levels that only a few specific large chain customers can attain and that
24 are not justified by cost savings achieved by Southern.

25 39. Some quantity discounts offered by Southern require purchases of
26 [REDACTED] to [REDACTED] cases at a time. In some instances, Southern referred to the largest
27 quantity levels associated with these deals as [REDACTED]
28 [REDACTED]). In addition,

1 Southern's [REDACTED] includes many deals [REDACTED]

2 [REDACTED].

3 40. In numerous instances, Southern gave favored large chain retailers

4 [REDACTED]

5 [REDACTED]

6 [REDACTED].

7 41. Southern's large, high-volume quantity discounts forced disfavored
8 independent retailers to pay significantly higher prices than favored large chain
9 retailers purchasing the same products and created significant retail pricing and
10 margin advantages for large chain retailers in the resale of those products to end
11 consumers.

12 **2. Large Cumulative Quantity Discounts**

13 42. Southern often allows favored large chain retailers to combine
14 purchases over a specified period to qualify for cumulative quantity discounts. In
15 numerous instances, these cumulative quantity discounts were offered [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]. Large chain retailers were able to qualify for these
19 cumulative volume thresholds by combining purchases across many stores or by
20 utilizing warehouses. In contrast, small independent retailers often operate only a
21 single store or handful of locations and generally have limited storage space.

22 43. These cumulative quantity discounts often were [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED].

26 44. For example, in California in 2022, Southern awarded favored
27 retailers [REDACTED], [REDACTED], and [REDACTED] credits totaling more than \$ [REDACTED],
28 \$ [REDACTED], and \$ [REDACTED] associated with cumulative quantity discounts for

1 their respective purchases of wine and spirits. In contrast, during the same period,
2 Southern awarded [REDACTED] in California [REDACTED] \$ [REDACTED] in
3 credits associated with cumulative quantity discounts.

4 45. To provide one stark example, for purchases of [REDACTED]
5 [REDACTED] in 2022, Southern [REDACTED]
6 [REDACTED]. During the same period,
7 Southern [REDACTED]
8 [REDACTED] \$ [REDACTED] to \$ [REDACTED]. In 2022, [REDACTED]
9 [REDACTED] \$ [REDACTED]
10 [REDACTED].

11 **3. Scan Rebates**

12 46. A scan rebate is a price reduction given to a retailer's customer at the
13 register for each bottle of a certain brand or product purchased (e.g., \$2 off per
14 bottle of Tito's Vodka). The retailer is reimbursed dollar-for-dollar by the supplier
15 or Southern for each scan discount extended to customers.

16 47. [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED].

20 48. In one instance in California in 2019, the scan rebate for retail sales of
21 [REDACTED]
22 [REDACTED] \$ [REDACTED]
23 [REDACTED] \$ [REDACTED]. In
24 other words, [REDACTED]
25 [REDACTED].

26 49. Southern often awards favored large chain retailers scan rebates that
27 are not made available to competing disfavored independent retailers. For example,
28 in Arizona, [REDACTED] \$ [REDACTED] \$ [REDACTED] in

1 scan rebates, [REDACTED], largely from January through August 2023. In Illinois,
2 [REDACTED]
3 \$ [REDACTED] in
4 2020. In contrast to these large chain retailers, independent retailers generally do
5 not receive scan rebates.

6 4. [REDACTED]

7 50. In several states, Southern [REDACTED]

8 [REDACTED]”
9 For example, in California, [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED].

17 51. Internal Southern documents confirm that [REDACTED]

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]”

23 52. In addition [REDACTED]

24 [REDACTED]. For
25 example, in August 2020, Southern [REDACTED] \$ [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED] \$ [REDACTED] \$ [REDACTED]

1 [REDACTED] \$ [REDACTED]

2 [REDACTED].

3 53. By way of further example, in June 2023, Southern [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED] \$ [REDACTED]

9 [REDACTED] \$ [REDACTED]

10 [REDACTED].

11 5. [REDACTED]

12 54. At times, Southern [REDACTED]

13 [REDACTED]

14 [REDACTED]. For example, in March 2023, Southern [REDACTED]

15 [REDACTED]

16 [REDACTED]. In

17 another instance, in January 2023, Southern [REDACTED]

18 [REDACTED]

19 [REDACTED].

20 **B. Exemplar Instances of Southern’s Price Discrimination**

21 55. Southern’s substantial and sustained price discrimination can be seen
22 through a sampling of specific product examples.

23 **1. [REDACTED] (California and Arizona)**

24 56. From 2018 to present, Southern has consistently sold [REDACTED]

25 [REDACTED] in

26 California and Arizona at prices [REDACTED]

27 [REDACTED]. In 2022, Southern provided [REDACTED]

28 to [REDACTED] in California that resulted in [REDACTED] paying effective net prices

1 of approximately \$ [REDACTED] per bottle. At the same time, Southern charged [REDACTED]
2 [REDACTED] that purchased full
3 cases and competed with nearby [REDACTED] in California net prices of up
4 to \$ [REDACTED] to \$ [REDACTED] per bottle, or as much as \$ [REDACTED] ([REDACTED]%) to \$ [REDACTED] ([REDACTED]%) [REDACTED]
5 per bottle than [REDACTED]. Indeed, \$ [REDACTED] per bottle was the price most commonly
6 paid by [REDACTED] in California in 2022, and over [REDACTED]% of [REDACTED]
7 [REDACTED] paid [REDACTED] this price. Southern acquired [REDACTED] bottles of [REDACTED]
8 [REDACTED] from [REDACTED]
9 [REDACTED].

10 57. In Arizona, Southern provided [REDACTED] a [REDACTED]
11 [REDACTED] tied to a [REDACTED]-case (or [REDACTED] bottle) purchase requirement that resulted
12 in an on-invoice net price of approximately \$ [REDACTED] per [REDACTED] bottle for [REDACTED]
13 [REDACTED] from September 2018 through at least October 2023. Southern also
14 extended the \$ [REDACTED] price to [REDACTED] for purchases of [REDACTED] cases ([REDACTED] bottles) to as
15 [REDACTED] cases ([REDACTED] bottles) at a time. Similarly, in 2021 and 2023, Southern
16 provided [REDACTED] the same effective net price of \$ [REDACTED] per bottle tied to a
17 [REDACTED]-case (or [REDACTED] bottle) purchase requirement for the same product. Southern
18 likewise extended the \$ [REDACTED] price to [REDACTED] purchase of [REDACTED] cases ([REDACTED]
19 bottles) at a time. Southern acquired [REDACTED] bottles of [REDACTED] from
20 [REDACTED] specifically [REDACTED]
21 [REDACTED]
22 [REDACTED].

23 58. In contrast, from September 2018 to at least October 2023, Southern
24 generally charged [REDACTED] that purchased full
25 cases in Arizona approximately \$ [REDACTED] to \$ [REDACTED] for [REDACTED] bottles of [REDACTED]
26 [REDACTED], even when purchasing [REDACTED] cases ([REDACTED] bottles) at a time. Southern thus
27 charged [REDACTED] as much as \$ [REDACTED] ([REDACTED]%) to \$ [REDACTED] ([REDACTED]%)
28 per bottle [REDACTED] for the identical product in

1 Arizona over a five-year period. The price most commonly paid by [REDACTED]
2 [REDACTED] in Arizona in this period was \$ [REDACTED] per bottle—\$ [REDACTED] ([REDACTED]%) [REDACTED] per
3 bottle than [REDACTED]—and more than [REDACTED] % of [REDACTED]
4 paid [REDACTED] this price.

5 **2. [REDACTED] (Illinois and California)**

6 59. [REDACTED] is the most popular [REDACTED]
7 product in the United States. Southern has consistently sold [REDACTED] bottles of this
8 [REDACTED] to [REDACTED] in Illinois and California at [REDACTED]
9 [REDACTED]. For instance, in Illinois
10 in 2022, Southern charged [REDACTED] a net price of \$ [REDACTED] per bottle while Southern
11 typically charged [REDACTED]
12 [REDACTED] net prices of \$ [REDACTED] to \$ [REDACTED] per bottle, or up to a [REDACTED] % [REDACTED]
13 [REDACTED] for purchases of full cases. \$ [REDACTED] per bottle was the price most
14 commonly paid by [REDACTED] in Illinois in 2022, and over [REDACTED] % of
15 [REDACTED] paid this price. This [REDACTED] was attributable to
16 [REDACTED]
17 [REDACTED]. Southern acquired [REDACTED] bottles of [REDACTED]
18 [REDACTED] from [REDACTED]
19 [REDACTED]
20 [REDACTED].

21 60. Similarly, in California in spring 2022, Southern charged [REDACTED] a
22 net price of \$ [REDACTED] per bottle ([REDACTED]), while
23 Southern charged [REDACTED] net prices of as much
24 as \$ [REDACTED] to \$ [REDACTED] per bottle, or up to a [REDACTED] % [REDACTED] for
25 purchases of full cases. The price most commonly paid by [REDACTED] in
26 California in 2022 was \$ [REDACTED] per bottle—up to \$ [REDACTED] ([REDACTED]%) [REDACTED] per bottle than
27 [REDACTED]—and over [REDACTED] % of [REDACTED] paid [REDACTED]
28 this price. Southern acquired [REDACTED] bottles of [REDACTED]

1 from [REDACTED]
2 [REDACTED].

3 **3. [REDACTED] (Illinois and California)**

4 61. From 2018 to present, Southern has consistently sold [REDACTED]
5 [REDACTED], a [REDACTED], to [REDACTED] in Illinois
6 and California at [REDACTED] net prices [REDACTED]
7 [REDACTED]. For instance, in 2022, [REDACTED] paid on-invoice net prices of
8 approximately \$ [REDACTED] to \$ [REDACTED] per [REDACTED] bottle for [REDACTED]. During
9 this same period, Southern charged [REDACTED]
10 [REDACTED] with locations near [REDACTED] in Illinois on-invoice
11 net prices of as much as \$ [REDACTED] to \$ [REDACTED] per bottle for the identical product, or
12 \$ [REDACTED] ([REDACTED]%) to \$ [REDACTED] ([REDACTED]%) [REDACTED] for purchases of full cases. The
13 price most commonly paid by [REDACTED] in Illinois in 2022 was \$ [REDACTED]
14 per bottle—\$ [REDACTED] ([REDACTED]%) [REDACTED] per bottle [REDACTED]—and over
15 [REDACTED]% of [REDACTED] paid [REDACTED] this price. Southern acquired [REDACTED]
16 bottles of [REDACTED] from [REDACTED]
17 [REDACTED]
18 [REDACTED].

19 62. Notably, [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED].

24 63. Similarly, in California during 2022, Southern charged [REDACTED] a net
25 invoice price of [REDACTED] \$ [REDACTED] per [REDACTED] bottle of [REDACTED]. When
26 [REDACTED] \$ [REDACTED] per bottle
27 are [REDACTED], [REDACTED] paid [REDACTED] \$ [REDACTED] per bottle. In contrast, Southern
28 charged [REDACTED] in proximity to [REDACTED] in California as much

1 as \$ [REDACTED] per bottle, or an \$ [REDACTED] ([REDACTED]%) [REDACTED]
 2 [REDACTED] for purchases of full cases. The price most commonly paid by [REDACTED]
 3 [REDACTED] in California in 2022 was \$ [REDACTED] per bottle—\$ [REDACTED] ([REDACTED]%) [REDACTED] per bottle
 4 [REDACTED]—and nearly [REDACTED]% of [REDACTED] paid [REDACTED]
 5 [REDACTED] this price. Southern acquired [REDACTED] bottles of [REDACTED] from
 6 [REDACTED]
 7 [REDACTED].

8 **4. Other [REDACTED] (California)**

9 64. Southern’s analyses show that, in California in 2022, Southern
 10 charged [REDACTED]
 11 [REDACTED] for [REDACTED] bottles of numerous other [REDACTED].

Item	Chain Price	Independent Price	Premium Paid by Independents	Percent Difference
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

17 [REDACTED]
 18 [REDACTED] within California in 2022. [REDACTED]
 19 [REDACTED].

20 65. The foregoing examples illustrate a broader pattern of Southern
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED].

24 **C. Lack of Functional Availability and Lack of Justification**

25 66. Many discounts and deals offered by Southern to favored chain
 26 retailers are not functionally available to disfavored independent retailers. Such
 27 discounts are not offered to independent retailers on a systematic basis. For
 28 example, Southern [REDACTED]

1 [REDACTED]

2 [REDACTED].” Another Southern document [REDACTED]

3 [REDACTED].”

4 67. Disfavored independent retailers frequently are not informed about the
5 large quantity discounts, cumulative quantity discounts, [REDACTED], and scan
6 rebates available to favored chain retailers, even when it may be logistically
7 feasible for the independent retailer to participate in the deal.

8 68. The largest quantity deals often [REDACTED]

9 [REDACTED].

10 Southern executives acknowledge that [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED].

16 69. In other instances, [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED].

21 70. Even when a discriminatory deal or discount program is made known
22 to all competing retailers by Southern, these discounts often are not functionally
23 available to disfavored small, independent retailers. Generally, independent
24 retailers cannot buy the volume necessary to achieve the highest discounts due to
25 their smaller storage space, lack of funds needed to purchase such quantities, and
26 lower turnover of products. In other instances, disfavored independent retailers
27 expressed interest in buying at the higher-volume quantity discount levels to secure
28 the deeper discounts, but Southern declined to make those deal levels available to

1 the independent retailers.

2 71. The discriminatorily higher prices Southern charged disfavored
3 independent retailers were not justified by cost savings Southern accrued doing
4 business with the favored chain retailers. That is, the pricing differentials between
5 favored and disfavored retailers exceed any cost savings achieved by Southern
6 when selling and delivering wine and spirits to the favored national chains.

7 72. Nor were the discriminatory pricing and benefits Southern provided to
8 favored chain retailers a good faith attempt to meet, but not exceed, the equally
9 low price of a competing distributor of wine and spirits.

10 73. Similarly, Southern's discriminatory pricing provided to favored large
11 chain retailers does not reflect a response to changing conditions affecting the
12 market for or the marketability of the wine or spirits concerned.

13 VII. HARM TO COMPETITION

14 74. In each instance of price discrimination alleged herein, the disfavored
15 independent retailer(s) competed with the favored large chain retailer(s) in the
16 same geographic area(s) for sales of identical bottles of wine and spirits to the
17 same pool of end consumers. Indeed, Southern's own executives [REDACTED]

18 [REDACTED]
19 [REDACTED].

20 75. Southern's acts of price discrimination involved substantial price
21 differences between competing retailers (i.e., a [REDACTED]
22 [REDACTED]) in [REDACTED] of transactions [REDACTED]
23 [REDACTED]. In certain transactions, [REDACTED] paid as much as
24 [REDACTED]% to [REDACTED]% [REDACTED]. Southern has made repeated
25 discriminatory sales of wine and spirits to disfavored and favored retailers across
26 many states from at least January 2018 through the present.

27 76. In many instances, the price discrimination was so significant that the
28 favored chain stores were able profitably to re-sell Southern products at retail

1 prices below the wholesale prices paid by disfavored independent retailers to
2 procure from Southern the exact same bottle of wine or spirits.

3 77. The effect of Southern's price discrimination has been or may be
4 substantially to lessen and impede competition in the retail sale of wine and spirits,
5 or to injure, destroy, or prevent competition between such favored and disfavored
6 retailers in the same geographic areas that sell the same products to the same pool
7 of end consumers.

8 78. Disfavored independent retailers have been damaged by Southern's
9 price discrimination. As a result of Southern's unlawful practices, independent
10 retailers have lost sales and customers to favored large chain retailers, have been
11 unable to be price-competitive with favored large chain retailers so as to attract
12 customers, have sold lower volumes of wine and spirits than they would have sold
13 in the absence of price discrimination, and have made lower profits on the products
14 they did sell.

15 **VIII. IN COMMERCE**

16 79. In each instance of price discrimination alleged herein, Southern has
17 engaged and is now engaging in commerce, as defined in the Clayton Act, as it
18 sells, distributes, ships, or causes to be shipped wine and spirits produced overseas
19 or in one state of the United States to customers located in other states and in the
20 District of Columbia.

21 80. Southern purchases wine and spirits from out-of-state or overseas
22 producers, and then re-sells the wine and spirits to retailers in other states, without
23 any transformation of the products, in a continuing flow of interstate commerce
24 across state boundaries. The wine and spirits products are, and were, sold for resale
25 and consumption within the United States.

26 81. In many instances, Southern places orders from suppliers [REDACTED]

27 [REDACTED]

28 [REDACTED]

1 [REDACTED] also work with suppliers to develop
2 product plans and distribution goals, [REDACTED]

3 [REDACTED].

4 82. In most instances, Southern [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED].

9 83. The demand for wine and spirits from [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED].

15 84. Based on the foregoing circumstances, the wine and spirits purchased
16 and sold by Southern remain in the flow of interstate commerce so as to be
17 considered “in commerce” for purposes of the Robinson-Patman Act because:

18 a. Southern purchases wine and spirits from suppliers [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED];

22 b. Southern purchases wine and spirits from suppliers [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]; and/or

27 c. Southern purchases wine and spirits from suppliers [REDACTED]

28 [REDACTED],



COUNT ONE

(Robinson-Patman Act, 15 U.S.C. § 13(a))

85. Each of the allegations in paragraphs 1 through 84 are incorporated in this Count One as if fully set forth herein.

86. The acts and practices of Southern set forth in paragraphs 1 through 84 above constitute unlawful price discrimination in violation of Section 2(a) of the Robinson-Patman Act amendments to the Clayton Act, 15 U.S.C. § 13(a), and will continue in the absence of the relief herein requested.

COUNT TWO

(Section 5 of Federal Trade Commission Act, 15 U.S.C. § 45)

87. Each of the allegations in paragraphs 1 through 84 are incorporated in this Count Two as if fully set forth herein.

88. The acts and practices of Southern set forth in paragraphs 1 through 84 above constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and will continue in the absence of the relief herein requested.

PRAYER FOR RELIEF

WHEREFORE, the FTC respectfully requests that this Court, as authorized by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b); Section 16 of the Clayton Act, 15 U.S.C. § 26; and as authorized by its own equitable powers:

1. Enter final judgment against Defendant Southern Glazer’s Wine and Spirits LLC;
2. Grant the FTC preliminary and permanent injunctive relief;
3. Order Southern to cease and desist from price-discriminating, within the meaning of Section 2(a) of the Robinson-Patman Act, by selling its products to any purchaser at a net price higher than that charged to any competing purchaser, where the discrimination may cause competitive harm as contemplated by the statutory language; and
4. Order such other and further relief as the Court deems just and proper.

1 Dated: December 12, 2024

Respectfully submitted,

2 Of Counsel:

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