

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGE



In the Matter of)
)
Ardagh Group S.A.,)
a public limited liability company, and)
)
Saint-Gobain Containers, Inc.,)
a corporation, and)
)
Compagnie de Saint-Gobain,)
a corporation,)
Respondents.)
_____)

DOCKET NO. 9356

SAZERAC COMPANY'S UNOPPOSED MOTION
FOR IN CAMERA TREATMENT OF PROPOSED EVIDENCE

Sazerac Company ("Sazerac"), which is not a party to the above-captioned action, respectfully requests that this Court grant *in camera* treatment for a handful of the documents and deposition designations (the "Confidential Information") that the Federal Trade Commission ("Complaint Counsel") and counsel for Ardagh Group S.A. ("Respondent") have designated for possible introduction at the administrative trial in this matter, of which Sazerac was notified by letters dated November 19, 2013.

Sazerac has conferred with both Complaint and Respondent's Counsel and is authorized by both to state that neither has any objection to the granting of Sazerac's motion.

Sazerac seeks *in camera* treatment for the following Confidential Information, which will be discussed in greater detail below:

Designated by Complaint Counsel

- A. Declaration of Philip Cissell, paragraphs 3-4, 6, 7, 9-10, 12, 14, 15, 17 and 18; the total annual spend in paragraph 1, line 4; and the last sentence in paragraph 8.

- B. Declaration of Steven Wyant, paragraphs 12 and 14-17; the sales revenue amount in paragraph 1, line 2, and the marketing budget amount in paragraph 1, line 3; the last 2 sentences in paragraph 2; the two stores names in paragraph 10, line 2; and the percentage in paragraph 11, line 5; the product name in paragraph 13, line 1.
- C. Email from Ken Varble to Steven Wyant, dated Jan. 14, 2013 (SAZ-00000196 - SAZ-00000197).
- D. Email from Steven Wyant to Jim Bryant, dated May 13, 2012 (SAZ-00003162 - SAZ-00003166).
- E. Email from Guy May to Steven Wyant, dated Dec. 9, 2011 (SAZ-00003361 - SAZ-00003362).

Designated by Respondent

- F. Email from Philip Cissell to Mike Engelhard and Ken Varble, dated Dec. 6, 2012 (SAZ-00002344 - SAZ-00002345).
- G. Email from Wayne Pozzi of Anchor to Philip Cissell, dated Nov. 8, 2012 (SAZ-00002371 - SAZ-00002373).
- H. Email from Steve Wyant to Randy Roets re Spot Award – Wally Simonz, dated July 17, 2013 (SAZ-00003524 - SAZ-00003526).
- I. Sazerac facility capacity table (SAZ-00005502).

Deposition Excerpts

Both Complaint Counsel and Respondent designated deposition excerpts for possible introduction. Sazerac requests *in camera* treatment for the following excerpts¹:

- J. Philip Cissell Deposition: lines 50:15-51:16, 52:16-19, 74:22-75:2, 95:24-97:6, 97:15-98:16, 98:23-102:7, 126:4-127:4, 127:18-25, 184:2-185:2, and 200:24-203:25; and
- K. Steven Wyant Deposition: lines 26:4-7, 26:13-16, 26:18-27:24, 112:2-113:16, 113:25-114:14, 114:18-117:1, 117:12-120:6, 125:1-126:10, 126:22-25, 127:1-10, 127:11-13, 127:20-128:4, 184:5-14; 184:16-19, and 217:5-218:6.

BACKGROUND

Sazerac is a private, family-owned U.S. alcoholic beverages company with headquarters in Metairie, Louisiana. Sazerac has grown both through acquisition and organically through

¹ Sazerac has requested *in camera* treatment only for information contained on the designated lines and expects that only the designated lines could be made public.

product and strategy innovation and leadership in cost structure management. Sazerac is a customer of both Respondent and Saint-Gobain Containers, Inc. in the purchase of glass bottles for bottling liquor products.

The information contained in the above-listed documents and testimony is competitively sensitive and is held in strict confidence by Sazerac. Public disclosure of that information is likely to cause direct and serious irreparable harm to Sazerac's competitive position in the adult beverage market in the United States. Therefore, pursuant to 16 C.F.R. § 3.45(b), Sazerac respectfully moves for *in camera* treatment of the Confidential Information. The declaration of Sazerac's Chief Financial Officer, Paul Pape, in support of this motion is attached hereto as Exhibit L ("Pape Decl.").

SAZERAC'S CONFIDENTIAL
INFORMATION DESERVES *IN CAMERA* TREATMENT UNDER
THE FTC'S RULES OF PRACTICE

The Confidential Information described in this motion should receive *in camera* treatment as provided by 16 C.F.R. § 3.45(b). Requests for *in camera* treatment must show that public disclosure of the material at issue will result in "clearly defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment." 16 C.F.R. § 3.45(b); *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961). That showing can be made by establishing that the material is "sufficiently secret and sufficiently material" to the movant's business "that disclosure would result in competitive injury." *In re General Foods Corp.*, 95 F.T.C. 352, 355 (1980). "[T]he courts have generally attempted to protect confidential business information from unnecessary airing." *H.P. Hood & Sons, Inc.* at 1188. Further, "the likely loss of business advantages is a good example of a clearly defined, serious injury." *In re Dura Lube Corp.*, 1999 FTC LEXIS 255, at *7 (1999) (punctuation omitted).

Moreover, the fact that Sazerac has narrowly tailored its request to designate only specific documents and passages of the depositions and the declarations that require *in camera* treatment should weigh in favor of granting this motion. See *In re Union Oil Co. of Calif*, 2005 FTC LEXIS 9, at * 1 (Jan. 19, 2005). Here, applying those standards, *in camera* treatment is warranted.

**SAZERAC HAS PRESERVED THE
CONFIDENTIALITY OF THE CONFIDENTIAL INFORMATION**

Sazerac has taken significant steps to protect the confidential nature of the Confidential Information, which was produced pursuant to compulsory processes and under the terms of the July 1, 2013 Protective Order Governing Discovery Material in this matter (the “Protective Order”), as well as the July 9, 2013 Protective Order Governing discovery in the related civil matter, *FTC v. Ardagh Group S.A. et al.*, Civil Action No. 13-CV-101021, both of which orders were issued to protect the Confidential Information in question here. Consistent with the Protective Order, Sazerac’s counsel affixed the following legend to the discs and documents produced: “Confidential - FTC Docket No. 9356.”² Pape Decl. ¶ 4.

Furthermore, Sazerac takes substantial measures to guard the secrecy of the Confidential Information by limiting the dissemination of that information and taking every reasonable step to protect its confidentiality. *Id.* The Confidential Information is only disclosed to senior Sazerac management and selected Sazerac employees with reason to have access to the information or outside of Sazerac to the extent necessary to facilitate key transactions. The Confidential Information would be extremely difficult and expensive, if not impossible, for outside persons to access or duplicate.

² A scanned copy of the disc is attached hereto as Exhibit M.

**DISCLOSURE OF THE CONFIDENTIAL INFORMATION WOULD
RESULT IN SERIOUS COMPETITIVE INJURY TO SAZERAC**

The following discusses the specific reasons supporting Sazerac's motion and constituting the requisite showing under 16 C.F.R. § 3.45(b).

Exhibit A is an unredacted copy of the Declaration of Philip Cissell, including paragraphs 3-4, 6, 7, 9-10, 12, 14, 15, 17 and 18; the total annual spend in paragraph 1, line 4; and the last sentence in paragraph 8, which contain Confidential Information. These excerpts reveal Confidential Information about Sazerac's annual spending, its production facilities and distribution arrangements, its glass and plastic bottle usage by size, costs associated with converting lines from glass to plastic, and its supplier relationships. Public disclosure of this information would provide Sazerac's suppliers and competitors with valuable insight into Sazerac's production processes and its supplier relationships, giving those suppliers and competitors an unfair competitive advantage over Sazerac, resulting in serious competitive injury. Public disclosure also would harm Sazerac's efforts to maintain business advantages in negotiating with suppliers. Pape Decl. ¶ 5.

Exhibit B is an unredacted copy of the Declaration of Steven Wyant, including paragraphs 12 and 14-17; the sales revenue amount in paragraph 1, line 2, and the marketing budget amount in paragraph 1, line 3; the last 2 sentences in paragraph 2; the two stores names in paragraph 10, line 2; and the percentage in paragraph 11, line 5; the product name in paragraph 13, line 1, which contain Confidential Information. These sections of Steven Wyant's declaration discuss Sazerac's experimentation with plastic bottles, its marketing budget, costs of glass and plastic, relationships with retailers, and business strategy regarding use of glass and plastic. The information in these excerpts is proprietary and highly confidential. Public disclosure of this information would give Sazerac's competitors insight into Sazerac's business

and marketing strategies, giving Sazerac's competitors an unfair competitive advantage over Sazerac, resulting in serious competitive injury. Pape Decl. ¶ 6.

Exhibit C is an email from Ken Varble to Steven Wyant, dated Jan. 14, 2013 (SAZ-00000196 - SAZ-00000197). The email exchange discusses Sazerac's considerations regarding using plastic versus glass bottles. Public disclosure of this information could be used by Sazerac's glass and plastic suppliers to analyze Sazerac's interest in using glass or plastic bottles and make determinations regarding the business advantages they may hold over Sazerac, resulting in serious competitive injury to Sazerac's ability to maintain business advantages in negotiating with suppliers. Pape Decl. ¶ 7.

Exhibit D is an email from Steven Wyant to Jim Bryant, dated May 13, 2012 (SAZ-00003162 - SAZ-00003166). This email provides a sales report on a particular Sazerac product. Public disclosure of this information would give Sazerac's competitors insight into Sazerac's sales activities and its product profitability, giving Sazerac's competitors an unfair competitive advantage over Sazerac. Public disclosure of this information would result in serious competitive injury. Pape Decl. ¶ 8.

Exhibit E is an email from Guy May to Steven Wyant, dated Dec. 9, 2011 (SAZ-00003361 - SAZ-00003362). This email exchange reveals information about Sazerac's marketing strategies and the market success of particular Sazerac products. Public disclosure of this information would give Sazerac's competitors insight into Sazerac's marketing activities and its product profitability, giving Sazerac's competitors an unfair competitive advantage over Sazerac. Public disclosure of this information would likely result in serious competitive injury. Pape Decl. ¶ 9.

Exhibit F is an email from Philip Cissell to Mike Engelhard and Ken Varble, dated Dec. 6, 2012 (SAZ-00002344 - SAZ-00002345). This document, which lists Sazerac's specialty glass bids received, reveals commercially sensitive information regarding the identity of Sazerac's potential suppliers and their relationship with Sazerac. Sazerac's current and potential specialty glass suppliers could be expected to use this information in future bids with Sazerac. Public disclosure of this information would result in serious competitive injury in negotiating prices with specialty glass suppliers. Sazerac's suppliers could use this information to undermine Sazerac's ability to receive competitive prices for glass bottles. Pape Decl. ¶ 10.

Exhibit G is an email from Wayne Pozzi of Anchor Hocking Company ("Anchor Hocking") to Philip Cissell, dated Nov. 8, 2012 (SAZ-00002371 - SAZ-00002373). The email exchange between Philip Cissell and Wayne Pozzi contains information about Anchor Hocking's competitive standing as a glass supplier for Sazerac and the advantages and disadvantages Sazerac perceived among the suppliers competing in the bid. This email exchange reveals commercially sensitive information regarding Sazerac's business relationship with Anchor Hocking. Sazerac's current and potential specialty glass suppliers could use this information to strategize about future bids to Sazerac, resulting in serious competitive injury to Sazerac's efforts to maintain business advantage in negotiating with suppliers. Pape Decl. ¶ 11.

Exhibit H is an email from Steven Wyant to Randy Roets, dated July 17, 2013 (SAZ-00003524 - SAZ-00003526). This email exchange discusses specific cost savings attributable to using particular bottles for select Sazerac products, including number of cases of products shipped to various markets and detailed cost information. Public disclosure of this Confidential Information could be used by Sazerac's suppliers to analyze Sazerac's interest in particular types of bottles and use that information in negotiations with Sazerac. Public disclosure also could be

used by Sazerac's competitors to conduct an analysis of Sazerac's sales in various markets and to use that information to develop strategies for competitive products. This email exchange also discusses Sazerac's employee retention strategies, the public disclosure of which would allow competitors as well as current and potential employees to gain information about Sazerac's employee retention strategies. Public disclosure would result in serious competitive injury to Sazerac's competitiveness in hiring. Pape Decl. ¶ 12.

Exhibit I is a document which shows Sazerac's facility capacity (SAZ-00005502). This table reveals the annual capacity of Sazerac manufacturing facilities and details regarding the lines in each. Public disclosure of this Confidential Information would allow Sazerac's competitors insight into Sazerac's proprietary production procedures, including their ability to service certain areas of the country, giving those competitors an unfair competitive advantage over Sazerac and resulting in serious competitive injury. Pape Decl. ¶ 13.

Exhibit J contains the following excerpts from Philip Cissell's deposition: lines 50:15-51:16, 52:16-19, 74:22-75:2, 95:24-97:6, 97:15-98:16, 98:23-102:7, 126:4-127:4, 127:18-25, 184:2-185:2, and 200:24-203:25. These pages discuss details about Sazerac's bottling costs and strategies and its future business plans with regard to use of glass and plastic bottles. This testimony reveals highly confidential and commercially sensitive information regarding Sazerac's future business strategies and reveals insight into Sazerac's current sales activities and its current health and viability. Public disclosure of this information could be used by Sazerac's competitors to analyze Sazerac's views of its status in the market and its confidential business strategies, giving those competitors an unfair competitive advantage over Sazerac. Public disclosure of this information would result in serious competitive injury. Pape Decl. ¶ 14.

Exhibit K contains the following excerpts from Steven Wyant's deposition: lines 26:4-7, 26:13-16, 26:18-27:24, 112:2-113:16, 113:25-114:14, 114:18-117:1, 117:12-120:6, 125:1-126:10, 126:22-25, 127:1-10, 127:11-13, 127:20-128:4, 184:5-14; 184:16-19, and 217:5-218:6. These pages discuss details about Sazerac's market successes and its business and marketing plans, including its introduction of plastic in particular applications and its proprietary market research on consumer bottling preferences. This testimony reveals highly confidential and commercially sensitive information regarding Sazerac's current and future business strategies, including its marketing activities and current profitability. Public disclosure of this information could be used by Sazerac's competitors to analyze Sazerac's place in the market and its confidential business strategies, giving those competitors an unfair competitive advantage over Sazerac, resulting in serious competitive injury. Pape Decl. ¶ 15.

**THE PUBLIC INTEREST IN DISCLOSURE OF THE
CONFIDENTIAL INFORMATION IS OUTWEIGHED BY THE
LIKELIHOOD OF SERIOUS COMPETITIVE HARM TO SAZERAC**

Sazerac deserves "special solicitude" as a non-party requesting *in camera* treatment for its confidential business information. *In the Matter of Kaiser Aluminum & Chemical Corporation*, 103 F.T.C. 500, 500 (1984). Reasonable periods of *in camera* treatment encourage non-parties to cooperate fully with future discovery requests in adjudicative proceedings. In this matter, Sazerac has cooperated with the discovery demands and both Philip Cissell and Steven Wyant have submitted to depositions. The disclosure of the Confidential Information would not materially promote the resolution or allow for measurable public understanding of this matter. Thus, the balance of interest favors *in camera* protection for the Confidential Information. *See In re Bristol-Myers*, 90 F.T.C. 455, 456 (1977).

IN CAMERA PROTECTION SHOULD EXTEND FOR FIVE YEARS

Because of the highly confidential and proprietary nature of the Confidential Information, lasting protection is appropriate in order to ensure avoidance of the competitive injuries to Sazerac's business outlined above. The Confidential Information, once disclosed, will remove advantages Sazerac currently enjoys due to its efforts to maintain the confidentiality of the Confidential Information. Accordingly, Sazerac respectfully requests that the Confidential Information be afforded *in camera* protection for a period of five years.

CONCLUSION

The Confidential Information satisfies the standard for *in camera* protection under the Federal Trade Commission's Rules of Practice and relevant case law. Accordingly, this Court should extend *in camera* protection to this confidential material for a period of five years.

This 9th Day of December, 2013.



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Attorneys for Sazerac Company

EXHIBIT A

**(Redacted From
Public Filing)**

EXHIBIT B

**(Redacted From
Public Filing)**

EXHIBIT C

**(Redacted From
Public Filing)**

EXHIBIT D

**(Redacted From
Public Filing)**

EXHIBIT E

**(Redacted From
Public Filing)**

EXHIBIT F

**(Redacted From
Public Filing)**

EXHIBIT G

**(Redacted From
Public Filing)**

EXHIBIT H

**(Redacted From
Public Filing)**

EXHIBIT I

**(Redacted From
Public Filing)**

EXHIBIT J

**(Redacted From
Public Filing)**

EXHIBIT K

**(Redacted From
Public Filing)**

EXHIBIT L

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

_____))
In the Matter of))
Ardagh Group S.A.,))
a public limited liability company, and) DOCKET NO. 9356
Saint-Gobain Containers, Inc.,))
a corporation, and))
Compagnie de Saint-Gobain,))
a corporation,))
Respondents.))
_____)

**DECLARATION OF PAUL PAPE IN SUPPORT OF NON
PARTY SAZERAC COMPANY'S UNOPPOSED MOTION
FOR *IN CAMERA* TREATMENT OF PROPOSED EVIDENCE**

I, Paul Pape, declare as follows:

1. I am currently the Chief Financial Officer of Sazerac Company ("Sazerac"), and have held that position since July 2007. In my position, I am responsible for overseeing Sazerac's financial planning and record-keeping, including overseeing the company's marketing budget and monitoring the cost of goods sold for Sazerac products.
2. I have reviewed the documents and testimony for which Sazerac seeks *in camera* treatment (the "Confidential Information"), and by virtue of my current position with Sazerac, I either prepared or am familiar with the information contained in the Confidential Information. Based upon my review of the Confidential Information, my knowledge of Sazerac's business, and my familiarity with the confidential protection afforded to this type of information by Sazerac, it is my belief that disclosure of the

Confidential Information to the public and to Sazerac's competitors would cause serious and irreparable competitive injury to Sazerac.

3. Sazerac is a private, family-owned company. One of Sazerac's competitive advantages as a privately-held company is its ability to keep private certain information, such as the costs that the company incurs and its sales and marketing successes. Moreover, as a company involved in the sale of liquor, many of its competitive advantages relate to ideas for roll-out of particular products in different geographic regions or using new or different packaging.
4. Sazerac has taken substantial measures to guard the Confidential Information contained in Exhibits A through K by limiting its dissemination and taking every reasonable step to protect its confidentiality. Sazerac produced the Confidential Information under compulsory subpoena processes and pursuant to the July 1, 2013 Protective Order Governing Discovery Material in this matter (the "Protective Order"), as well as the July 9, 2013 Protective Order Governing discovery in the related civil matter, *FTC v. Ardagh Group S.A. et al.*, Civil Action No. 13-CV-101021, both of which orders were issued to protect the Confidential Information in question here. Consistent with the Protective Order, Sazerac's counsel affixed the following legend to the discs containing the documents produced to the Federal Trade Commission and Respondent: "Confidential - FTC Docket No. 9356," as well as to the documents themselves. The Confidential Information is only disclosed to senior Sazerac management and selected Sazerac employees with reason to have access to the information. The Confidential Information is not known outside of Sazerac except to the extent necessary to facilitate customer and supplier transactions. Moreover, the Confidential Information would be extremely

difficult, time consuming, and expensive, if not impossible, for Sazerac's competitors or other outside persons to access or duplicate.

5. **Exhibit A: an unredacted copy of the Declaration of Philip Cissell, including paragraphs 3, 4, 6, 7, 9, 10, 12, 14, 15, 17 and 18; the total annual spend in paragraph 1, line 4; and the last sentence in paragraph 8, which contain Confidential Information.** These excerpts reveal Confidential Information about Sazerac's annual spending, its production facilities and distribution arrangements, its glass and plastic bottle usage by size, costs associated with converting lines from glass to plastic, and its supplier relationships. Public disclosure of this information would provide Sazerac's suppliers and competitors with valuable insight into Sazerac's production processes and its supplier relationships, giving those suppliers and competitors an unfair competitive advantage over Sazerac. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain its competitiveness in the alcoholic beverage market. Public disclosure of this information also would result in serious competitive injury by harming Sazerac's efforts to maintain business advantages in receiving offers from and negotiating prices with glass and plastic bottle suppliers.
6. **Exhibit B: an unredacted copy of the Declaration of Steven Wyant, including paragraphs 12 and 14-17; the sales revenue amount in paragraph 1, line 2, and the marketing budget amount in paragraph 1, line 3; the last 2 sentences in paragraph 2; the two stores names in paragraph 10, line 2; and the percentage in paragraph 11, line 5; the product name in paragraph 13, line 1, which contain Confidential Information.** These sections discuss Sazerac's experimentation with different

packaging, its marketing budget, costs of glass and plastic, relationships with retailers, and business strategy regarding use of glass and plastic. The information in these excerpts is proprietary and highly confidential. Public disclosure of this information would give Sazerac's competitors insight into Sazerac's business and marketing strategies, giving Sazerac's competitors an unfair competitive advantage over Sazerac. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain its competitiveness in the alcoholic beverage market.

7. **Exhibit C: Email from Ken Varble to Steve Wyant, dated Jan. 14, 2013 (SAZ-00000196 - SAZ-00000197).** The email exchange discusses Sazerac's considerations regarding using plastic versus glass bottles. Public disclosure of this information could be used by Sazerac's glass and plastic suppliers to analyze Sazerac's interest in using glass or plastic bottles and make determinations regarding the business advantages they may hold over Sazerac. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain business advantages in receiving offers from and negotiating prices with plastic and glass suppliers.
8. **Exhibit D: Email from Steve Wyant to Jim Bryant, dated May 13, 2012 (SAZ-00003162 - SAZ-00003166).** This email provides a sales report on a particular Sazerac product. Public disclosure of this information would give Sazerac's competitors insight into Sazerac's sales activities and its product profitability, giving Sazerac's competitors an unfair competitive advantage over Sazerac. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain its competitiveness in the alcoholic beverage market.

9. **Exhibit E: Email from Guy May to Steve Wyant, dated Dec. 9, 2011 (SAZ-00003361 - SAZ-00003362).** This email exchange reveals information about Sazerac's marketing strategies and the market success of particular Sazerac products. Public disclosure of this information would give Sazerac's competitors insight into Sazerac's marketing activities and its product profitability, giving Sazerac's competitors an unfair competitive advantage over Sazerac. Public disclosure of this information would likely result in irreparable harm to Sazerac's efforts to maintain and increase its competitiveness in the alcoholic beverage market. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain its competitiveness in the alcoholic beverage market.
10. **Exhibit F: Email from Philip Cissell to Mike Engelhard and Ken Varble, dated Dec. 6, 2012 (SAZ-00002344 - SAZ-00002345).** This document, which lists Sazerac's specialty glass bids received, reveals commercially sensitive information regarding Sazerac's specialty glass suppliers and project bidders. Sazerac's current and potential specialty glass suppliers could be expected to use this information in future bids with Sazerac. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain business advantages in receiving offers from and negotiating prices with specialty glass suppliers. Public disclosure of this document would reveal to Sazerac's competitors valuable information about the identity of Sazerac's potential suppliers and their relationship with Sazerac. Sazerac's suppliers could use this information to undermine Sazerac's ability to receive competitive prices for glass bottles.

11. Exhibit G: Email from Wayne Pozzi of Anchor to Philip Cissell, dated Nov. 8, 2012

(SAZ-00002371 - SAZ-00002373). The email exchange between Philip Cissell and Wayne Pozzi, an individual representing Anchor Hocking, contains information about Anchor Hocking's competitive standing as a glass supplier for Sazerac, Sazerac's satisfaction with its glass suppliers, and the advantages and disadvantages Sazerac perceived among the suppliers competing in the bid. This email exchange reveals commercially sensitive information regarding Sazerac's business relationship with Anchor Hocking. Sazerac's current and potential specialty glass suppliers could use this information to strategize about future bids to Sazerac. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain business advantage in negotiating prices with specialty glass suppliers.

12. Exhibit H: Email from Steve Wyant to Randy Roets, dated July 17, 2013 (Bates

range SAZ-00003524 - SAZ-00003526). This email exchange discusses specific cost savings attributable to using particular bottles for select Sazerac products. This information reveals Confidential Information about Sazerac products, including number of cases of products shipped to various markets and detailed cost information. Public disclosure of this information could be used by Sazerac's suppliers to analyze Sazerac's interest in particular types of bottles and use that information in negotiations with Sazerac. Public disclosure also could be used by Sazerac's competitors to conduct an analysis of Sazerac's sales in various markets and to use that information to develop strategies for competitive products. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain its competitiveness in specific U.S. locations. This email exchange also discusses Sazerac's employee reward

and recognition strategies. Public disclosure of this information would allow competitors as well as current and potential employees to gain information about Sazerac's internal business strategies. Public disclosure of this information would result in serious competitive injury by harming Sazerac's ability to maintain its competitiveness in the talent pool from which it hires.

13. Exhibit I: Sazerac facility capacity table (SAZ-00005502). This document reveals the annual capacity of Sazerac manufacturing facilities and details regarding the lines in each. Public disclosure of this confidential information would allow Sazerac's competitors insight into Sazerac's proprietary production procedures, including their ability to service certain areas of the country, giving those competitors an unfair competitive advantage over Sazerac. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain its competitiveness in the alcoholic beverage market.

14. Exhibit J: Excerpts from Philip Cissell's deposition: lines 50:15-51:16, 52:16-19, 74:22-75:2, 95:24-97:6, 97:15-98:16, 98:23-102:7, 126:4-127:4, 127:18-25, 184:2-185:2, and 200:24-203:25. These lines from Philip Cissell's deposition discuss details about Sazerac's bottling costs and strategies and its future business plans with regard to use of glass and plastic bottles. This testimony reveals highly confidential and commercially sensitive information regarding Sazerac's future business strategies and reveals insight into Sazerac's current sales activities and its current health and viability. Public disclosure of this information could be used by Sazerac's competitors to analyze Sazerac's place in the market and its confidential business strategies, giving those competitors an unfair competitive advantage over Sazerac. Public disclosure of this

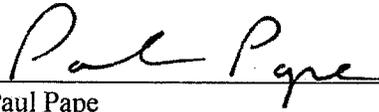
information could result in irreparable harm to Sazerac's efforts to maintain and increase its competitiveness in the alcoholic beverage market.

15. **Exhibit K: Excerpts from Steven Wyant's deposition: lines 26:4-7, 26:13-16, 26:18-27:24, 112:2-113:16, 113:25-114:14, 114:18-117:1, 117:12-120:6, 125:1-126:10, 126:22-25, 127:1-10, 127:11-13, 127:20-128:4, 184:5-14; 184:16-19, and 217:5-218:6.**

These pages:lines discuss details about Sazerac's market successes and its business and marketing plans, including its introduction of plastic in particular applications and its proprietary market research on consumer bottling preferences. This testimony reveals highly confidential and commercially sensitive information regarding Sazerac's current and future business strategies and reveals insight into Sazerac's current marketing activities and its current profitability. Public disclosure of this information could be used by Sazerac's competitors to analyze Sazerac's place in the market and its confidential business strategies, giving those competitors an unfair competitive advantage over Sazerac. Public disclosure of this information would result in serious competitive injury by harming Sazerac's efforts to maintain its competitiveness in the alcoholic beverage market.

PUBLIC RECORD

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in cursive script, reading "Paul Pape", is written over a horizontal line.

Paul Pape
Chief Financial Officer
Sazerac Company

Signed this 9th day of December 2013.

EXHIBIT M

Cooley
LLP

CONFIDENTIAL
FTC Docket
No. 9356

Aug. 19, 2013

FTC v. Ardagh Group S.A., et al.,
D.D.C. – No. 13-CV-101021-RMC

SAZ-00000001 – SAZ-00005498

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of)	
)	
Ardagh Group S.A.,)	
a public limited liability company, and)	DOCKET NO. 9356
)	
Saint-Gobain Containers, Inc.,)	
a corporation, and)	
)	
Compagnie de Saint-Gobain,)	
a corporation,)	
Respondents.)	

PROPOSED ORDER

On December 9, 2013, Non-Party Sazerac Company (“Sazerac”) filed a motion for *in camera* treatment of confidential business information contained in various documents and deposition excerpts that have been identified by Respondent and Complaint Counsel as potential trial exhibits.

IT IS HEREBY ORDERED that Sazerac’s motion is **GRANTED**. The information set forth in the following documents and deposition excerpts shall be subject to *in camera* treatment under 16 C.F.R. § 3.45 and will be kept confidential and not placed on the public record of this proceeding for a period of five years:

- Declaration of Philip Cissell, paragraphs 3, 4, 6, 7, 9, 10, 12, 14, 15, 17 and 18; the total annual spend in paragraph 1, line 4; and the last sentence in paragraph 8.
- Declaration of Steven Wyant, paragraphs 12 and 14-17; the sales revenue amount in paragraph 1, line 2, and the marketing budget amount in paragraph 1, line 3; the last 2 sentences in paragraph 2; the two stores names in paragraph 10, line 2; and the percentage in paragraph 11, line 5; the product name in paragraph 13, line 1.
- Email from Ken Varble to Steven Wyant, dated Jan. 14, 2013 (SAZ-00000196 - SAZ-00000197).

- Email from Steven Wyant to Jim Bryant, dated May 13, 2012 (SAZ-00003162 - SAZ-00003166).
- Email from Guy May to Steven Wyant, dated Dec. 9, 2011 (SAZ-00003361 - SAZ-00003362).
- Email from Philip Cissell to Mike Engelhard and Ken Varble, dated Dec. 6, 2012 (SAZ-00002344 - SAZ-00002345).
- Email from Wayne Pozzi to Philip Cissell, dated Nov. 8, 2012 (SAZ-00002371 - SAZ-00002373).
- Email from Steven Wyant to Randy Roets, dated July 17, 2013 (SAZ-00003524 - SAZ-00003526).
- Sazerac facility capacity table (SAZ-00005502).
- Philip Cissell Deposition: lines 50:15-51:16, 52:16-19, 74:22-75:2, 95:24-97:6, 97:15-98:16, 98:23-102:7, 126:4-127:4, 127:18-25, 184:2-185:2, and 200:24-203:25.
- Steve Wyant Deposition: lines 26:4-7, 26:13-16, 26:18-27:24, 112:2-113:16, 113:25-114:14, 114:18-117:1, 117:12-120:6, 125:1-126:10, 126:22-25, 127:1-10, 127:11-13, 127:20-128:4, 184:5-14; 184:16-19, and 217:5-218:6.

IT IS FURTHER ORDERED that only authorized Federal Trade Commission (the “FTC”) personnel and court personnel concerned with judicial review shall have access to the above-listed material, provided that I, the FTC, and reviewing courts may disclose the *in camera* information to the extent necessary for the proper disposition of the proceeding.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

DATED:

CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

I hereby certify that I delivered via electronic mail and hand delivery a copy of the foregoing to:

The Honorable D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW, Rm. H-110
Washington, DC 20580

I further certify that I delivered via electronic mail a copy of the foregoing to:

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This 13th day of December, 2013.



Megan S. Browdie

CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

This 13th day of December, 2013.



Megan S. Browdie