

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
BIRMINGHAM DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

R. C. COBB, INC.,

Defendant.

Civil Action No. C 185C02105

Entered: JANUARY 22, 1985
FILED:

ENTERED: May 29, 1985

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on January 22, 1985, and plaintiff and defendant R. C. Cobb, Inc., by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

ORDERED, ADJUDGED, AND DECREED as follows:

I.

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted under Section 1 of the Sherman Act, 15 U.S.C. §1.

II.

As used in this Final Judgment:

- A. "Booking agent" means a person who, acting as the agent of another person, obtains licenses for the exhibition of motion pictures by that other person;
- B. "Distributor" means any person who grants a license to an exhibitor authorizing the exhibitor to exhibit a motion picture in a theatre;
- C. "Exhibitor" means any person who owns, operates, or controls a theatre;
- D. "License" means the grant by a distributor to an exhibitor of the right to exhibit a motion picture in a theatre;
- E. "Person" means any individual, partnership, corporation, association, or other business or legal entity; and
- F. "Theatre" means any facility for the public exhibition of motion pictures.

III.

This Final Judgment applies to the defendant and to its officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

A. Defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of its assets, that the acquiring party agree to be bound by the provisions of this Final Judgment and that such agreement be filed with the Court.

B. Defendant shall provide written notice to the plaintiff no later than thirty days subsequent to the effective date of any action whereby defendant (1) changes its name, (2) liquidates or otherwise ceases operations, (3) declares bankruptcy, or (4) is acquired by (or becomes a subsidiary of) another firm.

V.

Defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing, or furthering, directly or indirectly, any contract, agreement, understanding, plan, or program, with any person anywhere in the United States, to:

1. Split or allocate among exhibitors the right or opportunity to negotiate for motion picture licenses, including, but not limited to, any such activity referred to as the split or allocation of a right of first negotiation or of an initial opportunity to negotiate for film licenses;
2. Refrain from bidding or competitively negotiating for film licenses;

3. Submit noncompetitive, collusive, or rigged offers or bids on motion picture licenses; or
4. Fix, stabilize, or lower the terms, such as percentage rental payments, guarantees, advances, or playtime, in motion picture licenses.

VI.

For a period of five years from the entry of this final judgment, defendant is enjoined and restrained:

(A) From acting as the booking agent for a theatre owned, operated, or controlled by another exhibitor where that theatre is within twenty miles of a theatre owned, operated, or controlled by the defendant, unless defendant obtains written permission to its acting as booking agent from the Assistant Attorney General in charge of the Antitrust Division; or

(B) From acting as the booking agent for a theatre owned, operated, or controlled by another exhibitor where that theatre is within twenty miles of a theatre for which the defendant acts as the booking agent, unless defendant obtains written permission to its acting as booking agent from the Assistant Attorney General in charge of the Antitrust Division.

VII.

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted:

- (1) Access during office hours of defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and
- (2) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers, employees, and agents of defendant, any of whom may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to defendant's principal office, defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly

authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

VIII.

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

IX.

This Final Judgment will expire on the tenth anniversary of its date of entry or with respect to any particular provision, on any earlier date specified.

X.

Entry of this Final Judgment is in the public interest.

Dated: May 29, 1985

/s/ Judge U. W. Clemon
UNITED STATES DISTRICT JUDGE