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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, ) Civil Action No. 80-C-407  
 )  
 v. )  
 ) INJUNCTIVE RELIEF  
 ) ANTITRUST  
 CAPITOL SERVICE, INC., )  
 KOHLBERG THEATRES, INC., )  
 MARCUS THEATRES CORPORATION, and )  
 UNITED ARTISTS THEATRE CIRCUIT, INC., ) Filed: May 5, 1980  
 )  
 Defendants. )

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action against the defendants named herein and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted against the defendants under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. §4), commonly known as the Sherman Act, in order to prevent and restrain the continuing violation by defendants, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. §1), as amended.

2. The defendants maintain offices, transact business, and are found within the Eastern District of Wisconsin.

II.

DEFENDANTS

3. Defendant, Capitol Service, Inc. (hereinafter "Capitol"), is a corporation organized and existing under the laws of the

State of Wisconsin and has its principal place of business at Milwaukee, Wisconsin. Capitol is an exhibitor of motion pictures and owns and operates motion picture theatres in the Milwaukee exhibition market.

4. Defendant, Kohlberg Theatres, Inc. (hereinafter "Kohlberg"), is a corporation organized and existing under the laws of the State of Illinois and has its principal place of business at Chicago, Illinois. Kohlberg is an exhibitor of motion pictures and owns and operates motion picture theatres in the Milwaukee exhibition market.

5. Defendant, Marcus Theatres Corporation (hereinafter "Marcus"), is a corporation organized and existing under the laws of the State of Wisconsin and has its principal place of business at Milwaukee, Wisconsin. Marcus is an exhibitor of motion pictures and owns and operates motion picture theatres in the Milwaukee exhibition market.

6. Defendant, United Artists Theatre Circuit, Inc. (hereinafter "UATC"), is a corporation organized and existing under the laws of the State of Maryland and has its principal place of business at New York City, New York. UATC is an exhibitor of motion pictures and owns and operates motion picture theatres in the Milwaukee exhibition market.

### III.

#### CO-CONSPIRATORS

7. Various other corporations and individuals not made defendants in this complaint participated as co-conspirators in the violation alleged and have performed acts and made statements in furtherance thereof.

### IV.

#### DEFINITIONS

8. As used herein, the term:

(A) "Motion Picture Theatre" means any facility to which

the public is admitted for the public exhibition of motion pictures;

(B) "Distributor" means any person who licenses, leases, or otherwise grants to an exhibitor the right or privilege to exhibit a print of a motion picture;

(C) "Exhibitor" means any person who owns, operates, or controls a motion picture theatre in any manner or by any means;

(D) "License" means the grant by a distributor to an exhibitor of the right or privilege to exhibit a print of a particular motion picture, whether under copyright or not, in a motion picture theatre without transferring title either to the print or to the motion picture to the exhibitor; and

(E) "Milwaukee exhibition market" means the geographic area comprising the county of Milwaukee, Wisconsin, and the eastern portion of Waukesha County, Wisconsin.

V.

#### TRADE AND COMMERCE

9. The motion picture industry has three levels: production, distribution and exhibition. Producers make motion pictures and enter into agreements with distributors to have their films placed nationally into theatres owned or operated by exhibitors. Some exhibitors own or control theatres in many locations; these exhibitors are referred to in the industry as "theatre chains" or "theatre circuits". The defendants are theatre circuits, each owning or controlling theatres in locations in the Milwaukee exhibition market and elsewhere. UATC and its affiliates and subsidiaries own and control theatres nationwide. Kohlberg owns and controls theatres in the State of Illinois as well as the State of Wisconsin. Marcus and Capitol each own or control theatres throughout the State of Wisconsin.

10. Distributors engage in their business on a nationwide basis. Within the national market in which the distributors operate are numerous regional markets, usually comprising

the metropolitan area of a county or city. Within each such market, exhibitors are competitors for the opportunity to license the distributors' product. The county of Milwaukee, Wisconsin, together with the eastern portion of Waukesha County, Wisconsin, is generally considered to be a single exhibition market by the distributors.

11. Motion pictures are not sold to exhibitors, but rather the rights to exhibit motion pictures are acquired by the exhibitors under license agreements entered into with distributors covering specified and limited terms of exhibition in return for which the exhibitors pay "film rental." Exhibitors seek to license motion pictures by submitting competitive bids in response to bid invitations from distributors or by negotiating with distributors for licenses to motion pictures.

12. In 1979, total annual gross receipts from admission to motion picture theatres in the Milwaukee market were approximately \$10 million. Together, the four defendants accounted for a substantial amount of such gross receipts in that market.

13. The activities of defendants and co-conspirators are within the flow of, and substantially affect, interstate commerce. The prints of the motion pictures exhibited by defendants are manufactured outside of the State of Wisconsin and are transported across state lines to Wisconsin by interstate common carriers. In the course of defendants' business, various instruments have been caused to move in interstate commerce, and many of the parties to the licensing transactions for the Milwaukee market are located in places outside Wisconsin.

## VI.

### VIOLATION ALLEGED

14. Beginning in 1977 and continuing up to and including the date of the filing of this complaint, the defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of

section 1 of the Sherman Act (15 U.S.C. §1), as amended. The combination and conspiracy is continuing and will continue unless the relief hereinafter prayed for is granted.

15. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which have been and are:

- (1) to divide, allocate and apportion among themselves the motion pictures released by distributors in the Milwaukee exhibition market; and
- (2) to restrain price competition among themselves by agreeing not to submit competitive bids for motion pictures released by distributors in the Milwaukee exhibition market.

16. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators have done those things which, as hereinbefore alleged, they have combined and conspired to do, including:

- (1) refraining from submitting bids or negotiating for motion pictures allocated to other defendants or co-conspirators;
- (2) submitting bids or negotiating only for motion pictures allocated to themselves;
- (3) refraining from dealing with distributors with respect to the motion pictures allocated to other defendants or co-conspirators;
- (4) refraining from competing against each other for the licensing of motion pictures; and
- (5) communicating with each other in order to obtain assurances with respect to the maintenance of, or adherence to, the aforesaid

combination and conspiracy, and in order to release, trade, or exchange allocated motion pictures among themselves.

VII.

EFFECTS

17. The aforesaid combination and conspiracy has had the following effects, among others:

(a) Competition among the defendants and co-conspirators for the licensing of motion pictures has been restrained, suppressed, and eliminated; and

(b) Distributors, producers, and consumers have been denied the benefits of free and open competition among defendants and co-conspirators for the licensing of motion pictures.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that defendants and co-conspirators have engaged in an unlawful combination and conspiracy in restraint of the aforesaid interstate trade and commerce, in violation of Section 1 of the Sherman Act.

2. That each of the defendants, their officers, directors, managers, agents, employees, representatives, subsidiaries, successors and assigns be perpetually enjoined and restrained from continuing, reviving, or renewing the aforesaid combination and conspiracy, and from entering into, maintaining or participating in any contract, agreement, understanding, plan, program, or other arrangement having the purpose or effect of continuing, reviving, maintaining, or renewing such combination and conspiracy.

3. That the defendants, their officers, directors, managers, agents, employees, representatives, subsidiaries, successors and assigns be enjoined from entering into, adhering to or maintaining, in any market, any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy to divide, allocate,

or apportion with any person, those distributors with whom they will deal or those motion pictures which they will attempt to license.

4. That the defendants be required to take such further action as the Court may deem necessary and appropriate to dissipate the effects of the aforesaid combination and conspiracy and to permit and restore full and free competition in the distribution and licensing of motion pictures.

5. That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

6. That the plaintiff recover the costs of this action.

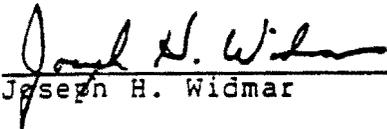
Dated:



RICHARD J. FAVRETTO  
Deputy Assistant Attorney General



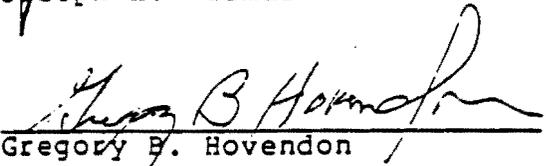
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