

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Arthur Murray, Inc., Educational Credit Bureau (N. Y.) Corp., Educational Credit Bureau, Inc., (Kansas City), Tuition Plan, Inc., U.S. District Court, W.D. Missouri, 1958 Trade Cases ¶69,192, (Nov. 21, 1958)**

Federal Antitrust Cases

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United States v. Arthur Murray, Inc., Educational Credit Bureau (N. Y.) Corp., Educational Credit Bureau, Inc., (Kansas City), Tuition Plan, Inc.

1958 Trade Cases ¶69,192. U.S. District Court, W.D. Missouri, Kansas City Division. Civil Action No. 12146. Dated November 21, 1958. Case No.1423 in the Antitrust Division of the Department of Justice.

### Headnote

#### Sherman Antitrust Act

**Combinations and Conspiracies—Consent Decree—Practices Enjoined—Interlocking Directorates.—**

A company engaged in the business of licensing studios to teach its dancing methods was enjoined by a consent decree from (1) having any officer, director, agent or employee who was, at the same time, an officer, director, agent or employee of any financial institution, and (2) permitting any of its officers, directors, agents or employees to own or control any stock or other security issued by three financial institutions. Also, various individuals with an interest in the company were prohibited from serving as officers, directors, agents or employees of any financial institution which accepted financing business from studios licensed by the company.

**Combinations and Conspiracies—Consent Decree—Practices Enjoined—Exclusive Dealing—Requiring Licensees to Deal With Related Companies.—**

A company engaged in the business of licensing studios to teach its dancing methods was prohibited by a consent decree from (1) revoking or threatening to revoke the license of any licensee which declined to place its financing business with any particular financial institution, (2) requiring, as a condition to the granting or renewing of a license, any person to agree to finance his student installment contracts through any financial institution named or approved by the company, (3) refusing to grant or renew a license because the applicant or licensee would not finance through a financial institution named or approved by the company, (4) enforcing any agreement which prevented any licensee from financing through any financial institution other than one named or approved by the company, and (5) requiring any licensee to agree that any financial institution should report to the company any information as to contracts placed or collections made by the institution. Also, three financial institutions were prohibited from accepting financing business from the company's licensees if any person owning an interest in the financial institutions also held or exercised the right to vote any of the company's stock. The company was also enjoined from permitting its stock to be voted by persons who owned any financial interest in financial institutions that accepted financing business from the company's licensees. The company was permitted, however, to disapprove of a licensee's use of a financial institution which engaged in oppressive or deceptive practices which were injurious to the company's reputation.

**Combinations and Conspiracies—Consent Decree—Practices Enjoined—Stock Holding in Related Companies.—**

A dance studio company and individuals with an-interest in the company were prohibited by a consent decree from (1) acquiring any interest in any stock or other security in any financial institution which accepted financing business from studios licensed by the company, (2) continuing outstanding loans to certain financial institutions beyond specific periods of time ranging from one month to as long as five years at the

court's direction, and (3) making any additional or future loans to organize or support any financial institution that accepted or proposed to accept financing business from any studio licensed by the company. Also, each of the individuals who had an interest in the company were ordered, within one year after entry of the decree, to dispose of any interest they might have in any stock or other security issued by three financial institutions. They were permitted, however, to retain or accept a bona fide non-voting lien or pledge on such stock, for the purpose of securing its full purchase price, for not longer than thirty-six months.

**Department of Justice Enforcement and Procedure—Consent Decree—Specific Relief—Disposal of Stock—Termination of Agreements.**—Individuals with an interest in a dance studio company were ordered by a consent decree to sell or otherwise dispose of, within one year after entry of the decree, all of their interest in any stock or other security issued by three financial institutions. They were permitted, however, to retain or accept a bona fide non-voting lien or pledge on such stock, for the sole purpose of securing its full purchase price, for not longer than thirty-six months. The three financial institutions were ordered by the decree to terminate, within seventy-five days, all agreements with licensees of the dance studio company. The financial institutions were permitted to re-negotiate a new agreement with such licensees provided that (1) such agreement was not inconsistent with the decree, (2) the term of the agreement was not for more than one year, and (3) the agreement could be cancelled by either party upon written notice at the end of any thirty-day period. The company was also ordered to furnish each of its licensees a true copy of the decree.

For the plaintiff: Victor R. Hansen, Assistant Attorney General, Department of Justice.

For the defendants: Paul M. Coonrod, New York, N. Y., and Cahill, Gordon, Reindel & Ohl, by Jerrold G. Van Cise and Detlev F. Vagts, New York, N. Y., for Arthur Murray, Inc. and Educational Credit Bureau (N. Y.) Corp.; and Morrison, Hecker, Buck, Cozad & Rogers, Kansas City, Mo., for Educational Credit Bureau, Inc. (Kansas City) and Tuition Plan, Inc.

### Final Judgment

#### [ *Consent Decree* ]

Duncan, District Judge [ *In full text* ] : The plaintiff, United States of America, having filed its complaint herein on November 21, 1958, the defendants having appeared and filed their answers to the complaint denying the substantive allegations thereof, and the parties hereto, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without said Final Judgment constituting evidence or an admission by any party hereto in respect of any such issues:

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue or fact or law herein or admission by any party hereto in respect of any such issue and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

#### I

#### [ *Jurisdiction* ]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim for relief against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

#### II

#### [ *Definitions* ]

As used in this Final Judgment:

(A) "AMI" \*shall mean defendant Arthur Murray, Inc.;

- (B) "ECB (KC)" shall mean defendant Educational Credit Bureau, Inc. (Kansas City);
- (C) "ECB (NY)" shall mean defendant Educational Credit Bureau (N. Y.) Corp.;
- (D) "TPI" shall mean defendant Tuition Plan, Inc.
- (E) "Consenting individual" shall mean any individual who submits to the jurisdiction of this Court and executes his or her consent to be bound and obligated by the terms of this Final Judgment as required by Section III of this Final Judgment;
- (F) "Licensee" shall mean any person authorized by AMI to use the name and instructional methods of AMI in the operation of a dancing school in the United States, its territories or possessions or Canada;
- (G) "Financial institution" shall mean any bank, finance company or other person, other than a family financial institution, engaged, or proposing to engage, in the business of accepting financing;
- (H) "Family financial institution" shall mean a financial institution which is engaged in, or proposes to engage in, the business of accepting financing solely from a dancing school or schools owned, or a majority of whose stock is owned, by (i) AMI or (ii) a consenting individual or individuals;
- (I) "Financing" or "to finance" shall mean the sale, assignment or other transfer, including transfer for collection only, to a financial institution of installment contracts, notes or other evidences of indebtedness given to evidence or secure indebtedness owing by pupils of a dancing school;
- (J) "Person" shall mean any individual, partnership, firm, corporation, association or other business or legal entity.

### III

#### [ *Applicability* ]

- (A) It appearing to this Court, pursuant to [Section 5 of the Sherman Act](#), that the ends of justice require that certain individuals connected with, or having an interest in, defendant AMI, be brought before this Court, the said individuals (as consenting individuals) hereby appear as additional parties waiving the necessity of being summoned and agreeing to be bound by the applicable provisions of this Final Judgment;
- (B) The provisions of this Final Judgment shall be applicable to any consenting individual or defendant and shall apply to its subsidiaries, successors, assigns, officers, directors, employees and agents, and to all other persons in active concert or participation with any such consenting individual or defendant who receive actual notice of this Final Judgment by personal service or otherwise.

### IV

#### [ *Interlocking Directorates* ]

- (A) Defendant AMI is enjoined and restrained from having any officer, director, agent or employee who is at the same time an officer, director, agent or employee of any financial institution, provided however, that David A. Teichman may, for a period not exceeding one (1) year from the date of entry of this Final Judgment, remain as an officer and director of ECB (NY);
- (B) Defendant AMI is enjoined and restrained from permitting any officers, directors, agents or employees to continue to serve as such officer, director, agent or employee of AMI if such individual (excepting Ira Murray and David A. Teichman for a period of one (1) year from the date of entry of this Final Judgment), directly or indirectly, owns or controls any stock or other security issued by, or has any financial interest in, any of the defendants ECB (KC), ECB (NY) or TPI;
- (C) Each consenting individual is ordered and directed to sell or otherwise dispose of, within one year from date of entry of this Final Judgment, all right, title and interest, owned or controlled by them, directly or indirectly, in any stock or other security issued by, or other financial interest in, any of the defendants ECB (KC), ECB (NY) or TPI; provided, however, no consenting individual disposing of such stock pursuant to Sections IV(B) and (C)

of this Final Judgment shall be deemed to have acted in violation thereof by retaining, accepting or enforcing a bona fide nonvoting lien, pledge or other form of security for not longer than thirty-six (36) months on such stock for the sole purpose of securing to such defendant the full purchase price of such stock;

(D) Defendant AMI and each of the consenting individuals are enjoined and restrained from acquiring, directly or indirectly, any right, title or interest in any stock or other security issued by, or any other financial interest in, ECB (KC), ECB (NY), TPI or any other financial institution, which accepts financing business from any licensee;

(E) Each of the consenting individuals is enjoined and restrained from serving as an officer, agent, employee or director of any financial institution accepting financing business from any licensee;

(F) Defendant AMI and each of the consenting individuals is enjoined and restrained from:

(1) Continuing for longer than one (1) month from the date of entry of this Final Judgment any outstanding loan heretofore made by any of them to defendant ECB (NY) or defendant ECB (KC);

(2) Continuing for longer than three (3) years (or such longer time, not beyond five (5) years, as the Court may direct) from the date of entry of this Final Judgment any outstanding loan heretofore made by any of them to defendant TPI. During such period of time as herein provided for, defendant TPI is ordered and directed to apply at least one-half of its net earnings after taxes each year as reported by defendant TPI in its annual statement to its stockholders to liquidation of any such outstanding loan;

(3) Making any additional or future loans to organize or support any financial institution accepting or proposing to accept financing business from any licensee.

V

[ *Exclusive Dealing* ]

(A) Each of the defendants ECB (NY), ECB (KC) and TPI is enjoined and restrained from accepting financing from any licensee if any person owning, directly or indirectly, any interest in any such defendant, also holds or exercises, directly or indirectly, any right to vote any of the stock of AMI;

(B) Defendant AMI is enjoined and restrained from permitting any of its stock to be voted by any person who owns any of the stock of, or other financial interest in, any financial institution (other than a family financial institution) which accepts financing from any licensee;

(C) Defendant AMI is enjoined and restrained from requiring or requesting any licensee to agree that any financial institution shall report to defendant AMI any information as to contracts placed or collections made by the financial institution;

(D) Each of the defendants and consenting individuals is enjoined and restrained from limiting or restricting, or attempting to limit or restrict, in any manner, the financial institution used or to be used by any applicant for a license or any licensee;

(E) Defendant AMI is enjoined and restrained from:

(1) Revoking or threatening to revoke the license of any licensee because such licensee declines to agree to place or does not place any or all of its financing business with any particular financial institution;

(2) Requiring, directly or indirectly, any person, as a condition to the granting, continuing or renewing of a license, to agree to finance through any financial institution named, designated or approved by defendant AMI;

(3) Refusing to grant or renew a license, or discriminating in the terms or conditions of any license, because the applicant or licensee will not, or does not, finance through a financial institution named, designated or approved by the defendant AMI;

(4) Enforcing or claiming any right under any contract, agreement or understanding which prevents any licensee from financing through any financial institution other than a financial institution named, designated or approved by defendant AMI;

(F) Provided that nothing in this Final Judgment shall prohibit, after notice in writing to the plaintiff, the disapproval by defendant AMI of the use by a licensee of a financial institution on the sole ground that such financial institution engages in oppressive or deceptive practices substantially injurious to the good will and reputation of defendant AMI; but, in such an event, the burden of proof in any proceeding with respect thereto shall be upon defendant AMI.

## VI

### [ *Specific Relief* ]

Defendants ECB (NY), ECB (KC) and TPI are each ordered and directed to terminate within seventy-five (75) days after the date of entry of this Final Judgment all agreements with licensees doing business with such defendants, provided, however, that such defendants may renegotiate a new agreement with any licensee provided that:

- (1) Such agreement is not inconsistent with this Final Judgment;
- (2) The term of such agreement shall not be for more than one (1) year; and
- (3) Such agreement may be cancelled by either party at the end of any thirty (30) day period upon written notice to the other party.

## VII

### [ *Notice* ]

Defendant AMI is ordered and directed within fifteen (15) days after the date of entry of this Final Judgment, to notify each licensee of the entry of this Final Judgment and to furnish to each such licensee a true copy of this Final Judgment.

## VIII

### [ *Enforcement and Compliance* ]

For the purpose of securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, made to its principal office, be permitted, subject to any legally recognized privilege:

- (A) Access, during the office hours of said defendant to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant which relate to any matter contained in this Final Judgment;
- (B) Subject to the reasonable convenience of said defendant, and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters.

Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, said defendant shall submit such reports in writing with respect to the matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment.

No information obtained by the means provided in this Section VIII 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 plaintiff except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

## IX

### [ *Jurisdiction Retained* ]

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 and directions as may be necessary or appropriate for the

construction or carrying out of this Final Judgment, for the termination, amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.