

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

Plaintiff,

v.

AMC ENTERTAINMENT HOLDINGS,
INC.,

and

CARMIKE CINEMAS, INC.,

Civil Action No.:

Defendants.

HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. DEFINITIONS

As used in this Hold Separate Stipulation and Order:

- A. “Acquirer” or “Acquirers” means the entity or entities to which Defendants divest the Theatre Divestiture Assets.
- B. “AMC” means AMC Entertainment Holdings, Inc., a Delaware corporation with its headquarters in Leawood, Kansas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Carmike" means Carmike Cinemas, Inc., a Delaware corporation with its headquarters in Columbus, Georgia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Initial Theatre Divestiture Assets" means the theatre assets listed in Appendix A of the proposed Final Judgment in this matter.

The term "Initial Theatre Divestiture Assets" includes:

1. All tangible assets that comprise the business of operating theatres that exhibit movies, including, but not limited to, real property and improvements, research and development activities, all equipment, fixed assets, and fixtures, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used in connection with the Initial Theatre Divestiture Assets; all licenses, permits, and authorizations issued by any governmental organization relating to the Initial Theatre Divestiture Assets; all contracts (including management contracts), teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to the Initial Theatre Divestiture Assets, including supply agreements (provided however, that supply agreements that apply to all of each Defendant's theatres may be excluded from the Initial Theatre Divestiture Assets, subject to the transitional agreement provisions specified in Section IV(F) of the proposed Final Judgment); all customer lists (including rewards and loyalty club data at the option of the Acquirer(s), copies of which may be retained by Defendants at their option), contracts, accounts, and credit records relating to the Initial Theatre Divestiture Assets; all repair and performance records and all other records relating to the Initial Theatre Divestiture Assets; and

2. All intangible assets relating to the operation of the Initial Theatre Divestiture Assets, including, but not limited, to all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, (provided, however, that the names Carmike, AMC, and any registered service marks of Carmike or AMC may be excluded from the Initial Theatre Divestiture Assets, subject to the transitional agreement provisions specified in Section IV(F) of the proposed Final Judgment)), technical information, computer software and related documentation (provided, however, that Defendants' proprietary software may be excluded from the Initial Theatre Divestiture Assets, subject to the transitional agreement provisions specified in Section IV(F) of the proposed Final Judgment), know-how and trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, all research data concerning historic and current research and development, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Carmike or AMC provide to their own employees, customers, suppliers, agents, or licensees (except for the employee manuals that Carmike or AMC provide to all its employees), and all research data concerning historic and current research and development.

E. "Screen Transfer Theatres" means the theatres listed in Appendix B of the proposed Final Judgment in this matter.

F. "Screen Transfer Divestiture Assets" means any Screen Transfer Theatres that Defendants must divest pursuant to Section XI(B) of the proposed Final Judgment due to Defendants' failure to fully effect the screen transfers required by Section XI(A) of the proposed Final Judgment. The term "Screen Transfer Divestiture Assets" also includes for any such Screen Transfer Theatre:

1. All tangible assets that comprise the business of operating theatres that exhibit movies, including, but not limited to, real property and improvements, research and development activities, all equipment, fixed assets, and fixtures, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used in connection with the Screen Transfer Divestiture Assets; all licenses, permits, and authorizations issued by any governmental organization relating to the Screen Transfer Divestiture Assets; all contracts (including management contracts), teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to the Screen Transfer Divestiture Assets, including supply agreements (provided, however, that supply agreements that apply to all of each Defendant's theatres may be excluded from the Screen Transfer Divestiture Assets, subject to the transitional agreement provisions specified in Section IV(F) of the proposed Final Judgment)); all customer lists (including rewards and loyalty club data at the option of the Acquirer(s), copies of which may be retained by Defendants at their option), contracts, accounts, and credit records relating to the Screen Transfer Divestiture Assets; all repair and performance records and all other records relating to the Screen Transfer Divestiture Assets; and

2. All intangible assets relating to the operation of the Screen Transfer Divestiture Assets, including, but not limited to, all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, (provided, however, that the names Carmike and AMC, and any registered service marks of Carmike and AMC may be excluded from the Screen Transfer Divestiture Assets, subject to the transitional agreement provisions specified in Section IV(F) of the proposed Final Judgment)), technical information, computer software and related documentation (provided, however, that Defendants' proprietary software may be excluded from the Screen Transfer Divestiture Assets, subject to the

transitional agreement provisions specified in Section IV(F) of the proposed Final Judgment)), know-how and trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, all research data concerning historic and current research and development, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Carmike or AMC provide to their own employees, customers, suppliers, agents, or licensees (except for the employee manuals that Carmike or AMC provide to all its employees), and all research data concerning historic and current research and development.

G. “Theatre Divestiture Assets” means the Initial Theatre Divestiture Assets and the Screen Transfer Divestiture Assets.

II. OBJECTIVES

The Final Judgment filed in this case is meant to ensure Defendants’ prompt divestiture of the Initial Theatre Divestiture Assets, transfer or divestiture of the Screen Transfer Theatres, and undertaking of other actions for the purpose of preserving competition in the markets for the exhibition of first-run, commercial motion pictures, the sale of preshow services to exhibitors, and the sale of cinema advertising to advertisers in order to remedy the effects that the United States alleges would otherwise result from AMC’s acquisition of Carmike. This Hold Separate Stipulation and Order ensures prior to such divestitures that the Theatre Divestiture Assets remain independent, economically viable, and ongoing business concerns that will remain independent and uninfluenced by AMC’s acquisition of Carmike, and that competition is maintained during the pendency of the ordered divestitures.

III. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue is proper in the United States District Court for the District of Columbia. Defendants waive service of summons of the Complaint.

IV. COMPLIANCE WITH AND ENTRY OF THE FINAL JUDGMENT

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. §16, and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

B. Defendants agree to arrange, at their expense, publication as quickly as possible of the newspaper notice required by the APPA, which shall be drafted by the United States in its sole discretion. The publication shall be arranged no later than three (3) business days after Defendants' receipt from the United States of the text of the notice and the identity of the newspaper within which the publication shall be made. Defendants shall promptly send to the United States (1) confirmation that publication of the newspaper notice has been arranged, and (2) the certification of the publication prepared by the newspaper within which the notice was published.

C. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Final Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the

date of the signing of this Hold Separate Stipulation and Order by the parties, comply with all the terms and provisions of the proposed Final Judgment. The United States shall have the full rights and enforcement powers in the proposed Final Judgment, including Section XVII, as though the same were in full force and effect as the final order of the Court.

D. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

E. This Hold Separate Stipulation and Order shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

F. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Hold Separate Stipulation and Order, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Hold Separate Stipulation and Order, and the making of this Hold Separate Stipulation and Order shall be without prejudice to any party in this or any other proceeding.

G. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that Defendants will later raise no claim of mistake, hardship, or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. HOLD SEPARATE PROVISIONS

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and continue to operate the Theatre Divestiture Assets as independent, ongoing, economically viable, competitive businesses, with management, sales, and operations of such assets held entirely separate, distinct, and apart from those of Defendants' other operations. Defendants shall not coordinate their exhibition, production, marketing, or terms of sale of any products or services with those produced or offered by or sold under any of the Theatre Divestiture Assets. Defendants shall take all steps necessary to preserve and maintain the value and goodwill of the Theatre Divestiture Assets. Within twenty (20) calendar days after the entry of this Hold Separate Stipulation and Order, Defendants will inform the United States of the steps Defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that (1) the Theatre Divestiture Assets will be maintained and operated as independent, ongoing, economically viable, and active competitors in the exhibition of first-run, commercial motion pictures; (2) management of the Theatre Divestiture Assets will not be influenced by Defendants; and (3) the books, records, competitively sensitive sales, marketing, and pricing information, and decision-making concerning production, distribution, or sales of products by or under any of the Theatre Divestiture Assets will be kept separate and apart from Defendants' other operations.

C. Defendants shall preserve, in accordance with current practice, the existing relationships with others doing business with any of the Theatre Divestiture Assets consistent with and subject to the requirements of the proposed Final Judgment.

D. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of the Theatre Divestiture Assets and shall maintain at 2016 levels or previously

approved levels for 2017, whichever are higher, all promotional, advertising, sales, technical assistance, marketing, and merchandising support for the Theatre Divestiture Assets.

E. Defendants shall provide sufficient working capital and lines and sources of credit to continue to maintain the Theatre Divestiture Assets as economically viable and competitive ongoing businesses, consistent with the requirements of Sections V(A) and (B).

F. Defendants shall take all steps necessary to ensure that the Theatre Divestiture Assets are fully maintained in operable condition at no less than current capacity and sales, and shall maintain and adhere to normal repair and maintenance schedules for the Theatre Divestiture Assets.

G. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge, or otherwise dispose of any of the Theatre Divestiture Assets.

H. Defendants shall provide such support services for the Theatre Divestiture Assets as the Theatre Divestiture Assets require to operate as economically viable, competitive, and ongoing exhibitors of first-run, commercial motion pictures. These support services may include federal, state, and local municipal regulatory compliance; human resources; legal; finance; software and computer operations support; and such other services as are required to operate the Theatre Divestiture Assets.

I. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate, and complete financial ledgers, books, and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, and income of the Theatre Divestiture Assets.

J. Defendants shall take no action that would jeopardize, delay, or impede the sale of the Theatre Divestiture Assets.

K. Defendants' employees with primary responsibility for operation of the Theatre Divestiture Assets shall not be transferred or reassigned to other areas within Defendants' business, except for transfer bids initiated by employees pursuant to Defendants' regular, established, job posting policy. Defendants shall provide the United States with ten (10) calendar days notice of such transfer.

L. Defendants, subject to the approval of the United States, shall appoint a person or persons to oversee the Theatre Divestiture Assets, and who will be responsible for compliance with this section. This person shall have complete managerial responsibility for the Theatre Divestiture Assets, subject to the provisions of the proposed Final Judgment. In the event such person is unable to perform his or her duties, Defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should Defendants fail to appoint a replacement acceptable to the United States within this time period, the United States shall appoint a replacement.

M. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to an Acquirer or Acquirers acceptable to the United States.

N. For the avoidance of doubt, the obligations set forth in this section shall only attach to a Screen Transfer Theatre upon a determination that such Screen Transfer Theatre must be divested pursuant to Sections IV(b) and XI(b) of the proposed Final Judgment due to Defendants' failure to accomplish the transfer of such theatre as required by Section XI(a) of the proposed Final Judgment.

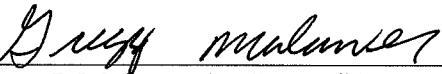
**VI. DURATION OF HOLD SEPARATE AND
ASSET PRESERVATION OBLIGATIONS**

Defendants' obligations under Section V of this Hold Separate Stipulation and Order shall remain in effect until (1) consummation of all of the Theatre Divestiture Assets required by the proposed Final Judgment or (2) further order of the Court. If the United States voluntarily dismisses the Complaint in this matter, Defendants are released from all further obligations under the Hold Separate Stipulation and Order.

DATED: December 20, 2016

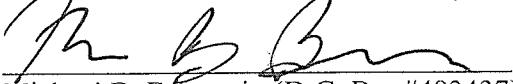
Respectfully submitted,

**FOR PLAINTIFF UNITED STATES
OF AMERICA:**



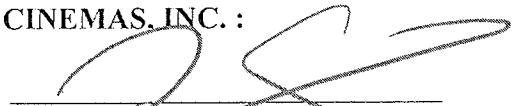
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ORDER

IT IS SO ORDERED by the Court, this ____ day of December, 201__.

United States District Judge