

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

STATE OF ILLINOIS,

STATE OF COLORADO,

and

STATE OF INDIANA,

Plaintiffs,

v.

AMC ENTERTAINMENT HOLDINGS, INC.,

and

KERASOTES SHOWPLACE
THEATRES, LLC,

Defendants.

Civil Action No:

Judge:

Filed:

10 0846

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 AMC divests the Divestiture Assets.

B. “AMC” means defendant AMC Entertainment Holdings, Inc., a Delaware corporation with its principal place of business in Kansas City, Missouri, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. “Kerasotes” means defendant Kerasotes Showplace Theatres, LLC, a Delaware corporation with its principal place of business in Chicago, Illinois, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. “Divestiture Assets” means the following theatre assets:

	Theatre	Address
1	AMC Cantera 30	28250 Diehl Road, Warrenville, IL, 60555
2	Kerasotes Showplace 12 (Bolingbrook)	1221 West Boughton Road, Bolingbrook, IL 60440
3	Kerasotes Glen 10	1850 Tower Drive, Glenview, IL 60026
4	AMC Gardens 13	4999 Old Orchard Shopping Center, Skokie, IL 60077
5	Kerasotes Colony Square 12	1164 West Dillon Road Louisville, CO 80027

6	Kerasotes Olde Town 14	5550 Wadsworth Boulevard Arvada, CO 80002
7	Kerasotes Showplace 12 (Glendale 10) OR AMC Castleton Square 14	6102 N. Rural Street Indianapolis, IN 46220 6020 East 82 nd Street Indianapolis, IN 46250
8	AMC Greenwood 14	461 South Greenwood Park Drive, Greenwood, IN 46142

The term "Divestiture Assets" includes:

1. All tangible assets that comprise the business of operating mainstream theatres that exhibit first-run, commercial 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 Divestiture Assets; all licenses, permits, and authorizations issued by any governmental organization relating to the Divestiture Assets; all contracts (including management contracts), teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to the Divestiture Assets, including supply agreements; all customer lists (including loyalty club data at the option of the Acquirer(s), copies of which may be retained by AMC at its option), contracts, accounts, and credit records; all repair and performance records and all other records relating to the Divestiture Assets;

2. All intangible assets used in the development, production, servicing, and sale of the Divestiture Assets, including but not limited to all patents, licenses, and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, technical information, computer software (except Defendants' proprietary software), and related

documentation, know-how, 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 relating to Divestiture Assets, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Defendants provide to their own employees, customers, suppliers, agents, or licensees, and all research data concerning historic and current research and development efforts relating to the Divestiture Assets; provided, however, that this term does not include assets that the Defendants do not own or that AMC is not legally able to transfer.

II. Objectives

The Final Judgment filed in this case is meant to ensure AMC's prompt divestiture of the Divestiture Assets for the purpose of establishing one or more viable competitors in the exhibition of first-run, commercial motion pictures in mainstream theatres in order to remedy the effects that the plaintiffs allege would otherwise result from AMC's acquisition of Kerasotes. This Hold Separate Stipulation and Order ensures, prior to such divestitures, that the Divestiture Assets remain independent, economically viable, and ongoing business concerns, and that competition is maintained and not diminished during the pendency of the ordered divestitures.

III. Jurisdiction

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

IV. Compliance with and Entry of 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 plaintiffs have not withdrawn their consent, which they 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. Defendants agree to arrange, at their expense, publication as quickly as possible of the newspaper notice required by the APPA. The publication shall be arranged no later than five (5) calendar 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 plaintiff 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.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the 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 Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. 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.

D. This Stipulation 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.

E. In the event that (1) the plaintiffs have withdrawn their consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, 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 Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

F. 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. AMC shall, except as is necessary to carry out their obligations under this Hold Separate Stipulation and Order and the proposed Final Judgment, or to comply with other legal obligations, take all steps necessary to ensure that the Divestiture Assets will be maintained and operated as ongoing, economically viable, and active competitors in the exhibition of first-run, commercial motion pictures. AMC shall maintain the viability, marketability, and competitiveness of the Divestiture Assets, and shall not cause the wasting or deterioration of the Divestiture Assets, nor shall they cause the Divestiture Assets to be operated in a manner

inconsistent with applicable laws, nor shall they sell, transfer, encumber, or otherwise impair the viability, marketability, or competitiveness of the Divestiture Assets. AMC shall conduct the business of the Divestiture Assets in the regular and ordinary course and in accordance with past practice, except as otherwise approved by the United States, and shall use their best efforts to preserve the existing relationships with suppliers, customers, employees, and others having business relations with the Divestiture Assets. AMC shall use its best efforts to keep the organization and properties of each of the Divestiture Assets intact, including current business operations, physical facilities, and working conditions. Within twenty (20) days after the entry of the Hold Separate Stipulation and Order, AMC will inform the United States of the steps taken to comply with the Hold Separate Stipulation and Order.

B. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of the Divestiture Assets, and shall maintain at 2009 or previously approved levels for 2010, whichever are higher, all promotional, advertising, sales, technical assistance, marketing, and merchandising support for the Divestiture Assets. Provided, however, that Defendants are not obligated to maintain movie-specific promotions at any particular level.

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

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

E. 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 Divestiture Assets.

F. 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 Divestiture Assets.

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

H. Defendants' employees with primary responsibility for the operation of the Divestiture Assets shall not be transferred or reassigned to other areas within the company 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.

I. Defendants shall appoint a person or persons to oversee the Divestiture Assets, who will be responsible for Defendants' compliance with this Section. This person or persons shall have complete managerial responsibility for the Divestiture Assets, subject to the provisions of this Final Judgment, and shall make all pricing and discounting decisions independent of Defendants. In the event such person is unable to perform his 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.

J. 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.

VI. Duration of Hold Separate and Asset Preservation Agreement

Defendant's obligations under Section V of the Hold Separate Stipulation and Order shall remain in effect until (1) consummation of the divestitures 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 this Hold Stipulation and Order.


ORDER

It is SO ORDERED this ___ day of _____ 2010.

United States District Judge

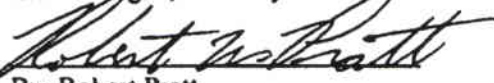
Respectfully submitted,

**FOR PLAINTIFF UNITED STATES
OF AMERICA:**


Gregg I. Malawer (DC Bar No. 481685)
Nina Hale
Bennett Matelson (DC Bar No. 454551)
Creighton J. Macy
U.S. Department of Justice
Antitrust Division
450 5th Street., N.W.
Suite 4000
Washington, DC 20530
Telephone: (202) 616-5943
Fax: (202) 514-7308
E-mail: gregg.malawer@usdoj.gov
Attorneys for Plaintiff the United States
Dated: May 21, 2010


FOR PLAINTIFF STATE OF ILLINOIS:

Lisa Madigan, Attorney General


By: Robert Pratt
Chief, Antitrust Bureau
Office of the Attorney General
State of Illinois
100 West Randolph Street
13th Floor
Chicago, Illinois 60601
Telephone: (312) 814-3722
Fax: (312) 814-4209
E-mail: RPratt@atg.state.il.us

**FOR PLAINTIFF STATE OF
COLORADO:**


John Suthers, Attorney General


By: Devin Laiho
Assistant Attorney General
Antitrust Enforcement


Office of the Colorado Attorney General
1525 Sherman St., Seventh Floor
Denver, Colorado 80203
Telephone: (303) 866-5079
Fax: (303) 866-5691
E-mail: Devin.Laiho@state.co.us

FOR PLAINTIFF STATE OF INDIANA:

Greg Zoeller, Attorney General


By: Abigail Lawlis Kuzma
Director and Chief Counsel
Consumer Protection Division
Office of the Indiana Attorney General
Indiana Government Center South
302 W. Washington, 5th Floor
Indianapolis, IN 46204
Telephone: (317) 234-6843
Fax: (317) 232-7979
E-mail: AKuzuma@atg.in.gov

FOR DEFENDANT AMC:


Deborah Feinstein
Michael B. Bernstein
Arnold & Porter LLP
555 Twelfth Street, NW
Washington, DC 20004-1206
Telephone: (202) 942-5015
Fax: (202) 942-5999
E-mail: Deborah.Feinstein@aporter.com

FOR DEFENDANT KERASOTES:


Marc E. Raven
Sidley Austin LLP
One South Dearborn
Chicago, Illinois 60603
Telephone: (312) 853-7162
Fax: (312) 853-7036
E-mail: mraven@sidley.com