



RESTRICTED — Not to be released outside the General Accounting Office except on the basis of specific approval  
UNITED STATES GENERAL ACCOUNTING OFFICE  
is kept by the Distribution Section, Publications Branch, GAO  
WASHINGTON, D.C. 20548

089675

4.61.02

089675

15

GENERAL GOVERNMENT  
DIVISION

RELEASED

JUN 21 1974

B-178205

74-0012

The Honorable William H. Hudnut, III  
House of Representatives



Dear Mr. Hudnut:

On March 11, 1974, you transmitted to us a letter from Mr. Trueman T. Rembusch, Chairman, Trade Practice Committee, Theatre Owners of Indiana. Mr. Rembusch's letter referred to our February 14, 1974, report to you. You requested comments or information we may have on Mr. Rembusch's letter.

On March 28, 1974, we met with Mr. Rembusch and discussed complaints filed with the Internal Revenue Service (IRS) concerning alleged violations of the June 13, through August 12, 1973, Special Price Freeze. One complaint concerned Warner Brothers Distributing Corporation, and the other concerned Twentieth Century-Fox Film Corporation. We also discussed a complaint possibly filed concerning Paramount Pictures and its pricing of the movie, "The Godfather."

The complaint against Warner Brothers was filed with the Indianapolis, IRS district office and transferred to the Cincinnati IRS district office. The complaint against Twentieth Century-Fox was filed with the Des Moines IRS district office. The possible complaint against Paramount Pictures was reportedly filed with the Los Angeles IRS district office.

On February 15, 1974, IRS forwarded to the Cost of Living Council (CLC) information on its investigation of the alleged violation by Warner Brothers. IRS asked CLC to determine whether motion picture distributors were subject to the Special Price Freeze and whether each motion picture theater was considered a separate class of purchaser. On April 5, 1974, CLC ruled affirmatively on both questions and subsequently transmitted this ruling to IRS.

On April 18, 1974, IRS issued a remedial order to Warner Brothers for an alleged violation of the Special Price Freeze regulations. An IRS official said that on April 29, 1974, Warner Brothers had requested a conference for rebutting the remedial order.

904720 089675

After contact between Warner Brothers' attorneys and an IRS conferee, the conferee concluded that the Government would be in an untenable position to sustain the violation. He based his decision on an August 11, 1972, CLC determination that the application and enforcement of price controls on motion picture rentals is not feasible, due to the highly complex industry pricing practices. Although the conferee recommended revocation of the remedial order without prejudice, the IRS national office asked that the decision be delayed until the case was heard by a case resolution panel. The panel's purpose was to resolve cases not easily resolved by district conferees. This panel was composed of a representative from the CLC General Counsel, the CLC Office of Operations, the Department of Justice, and an IRS analyst. After the conferee presented the case before the panel, the panel ruled on May 22, 1974, that the conferee's recommended IRS disposition be upheld due to "insufficient documentation." Accordingly, the remedial order has been revoked.

With respect to the complaint against Twentieth Century-Fox, IRS told us that its Des Moines district office had not developed sufficient information when the Warner Brothers case was being pursued to show whether there was a violation of the Special Price Freeze. Originally, IRS said that the Des Moines district office would be directed to quickly pursue the Twentieth Century-Fox case if Warner Brothers won its case. IRS told us that it had chosen to pursue only one of these two complaints in an effort to quickly reduce its compliance case inventory because the Economic Stabilization Program authority had lapsed on April 30, 1974, and wind-down activities would cease on June 30, 1974. However, on May 31, 1974, an IRS official informed us that the Des Moines IRS district office would be instructed to discontinue work on the complaint against Twentieth Century-Fox. In a June 4, 1974, memorandum to us, IRS states that the complaint does not merit further investigation. Also, IRS believes it cannot justify pursuing the case in view of the resolution reached on other motion picture industry cases.

IRS also said that the exhibitors who feel they may have incurred unjustified price increases have exhausted their administrative remedies. However, the Economic Stabilization Act of 1970 provides that any person suffering legal wrong because of any act or practice arising out of the Economic Stabilization Act of 1970, or any order or regulation issued under the act, may bring an action in a district court of the United States for appropriate relief, including an action for declaratory judgment, writ of injunction, and/or damages.

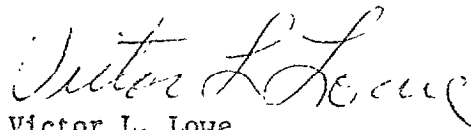
In Mr. Rembusch's letter to you and in our discussions with Mr. Rembusch, he referred to complaints which may have been filed with IRS alleging a violation in pricing the movie, "The Godfather." An IRS national office official contacted the Los Angeles IRS district office on May 8, 1974, to inquire about these complaints. The official said there had been numerous complaints from consumers, not theater owners,

concerning ticket prices charged by theater chains exhibiting "The Godfather." He also told us that as a result of an IRS investigation and an IRS Chief Counsel ruling, the higher ticket prices for that movie did not violate the price control regulations.

- - - -

On April 1, 1974, you requested that we furnish you a copy of the March 7, 1972, letter from the Motion Picture Association of America to CLC regarding a CLC interpretation of price controls on motion pictures. We have provided Mr. Rembusch with a copy of this letter and are also enclosing a copy for your records.

Sincerely yours,



Victor L. Lowe  
Director

Enclosure

KALFBACH, DE MARCO, KILPAT & CHEE LINGWORTH

400 HUNTERS LANE, WASHINGTON, D.C. 20004  
505 OBERLIN AVE. S.W.  
1001 N. KENNEDY DRIVE  
WASHINGTON, D.C.

RECEIVED  
MARCH 10 1972  
U.S. DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON, D.C. 20250  
TELEPHONE (202) 219-6000

March 7, 1972

OF COURSE  
JAMES H. ...

ALBERT E. ...  
FRANK ...  
GEOFFREY ...  
HARVEY ...  
JAMES ...  
JOHN ...  
LARRY ...  
MICHAEL ...  
RICHARD ...  
SCOTT ...  
THOMAS ...  
WILLIAM ...  
YOUNG ...

BEST DOCUMENT AVAILABLE

Mr. Joseph E. Mullaney  
General Counsel  
Cost of Living Council  
New Executive Office Building  
Washington, D.C. 20567

Re: Application of Motion Picture Association  
of America, Inc.

Dear Mr. Mullaney:

Thank you for your letter of March 3, 1972 in response to the request on behalf of the Motion Picture Association of America, Inc. for an interpretation of the copyright exemption set forth in the Cost of Living Council's regulations.

It is obvious from the detailed discussion set forth in your letter that the Council has recognized the complexity of this matter and has indeed given it extensive consideration, for which we thank you.

We understand that you will now refer this matter back to the Price Commission to determine whether it is possible to develop appropriate pricing rules for motion picture exhibition licenses and contracts.

We respectfully request that, contrary to the action proposed by the next to the last paragraph of your letter, you do not ask the Chief Counsel's office of the IRS to implement the Council action concerning the interpretation questions discussed in your letter. In view of the fact that the OLC contemplates looking at the matter as in a separate Price Commission examination of the pricing problem, we feel that to ask implementation by the IRS will serve no useful purpose, but will create the impression in the industry that, by indirection, all motion picture licensing agreements are in fact within the freeze before the Cost of Living Council has in fact considered our request for exemption of the fees charged for such licensing agreements.


Mr. Joseph E. Mullerney  
March 7, 1972  
Page Two

BEST DOCUMENT AVAILABLE

We shall look forward to hearing from the Title Commission staff with the view toward arriving at a speedy and equitable determination of this rather complex and important question.

Thank you again for your attention to this matter.

Very truly yours,



FRANK DE MARCO, JR.  
For the Firm

FDM:gem