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Before the
COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re **DISTRIBUTION OF CABLE ROYALTY FUNDS** **DISTRIBUTION OF SATELLITE ROYALTY FUNDS**	**CONSOLIDATED DOCKET NO. 14-CRB-0010-CD/SD (2010-13)**

SETTLING DEVOTIONAL CLAIMANTS' REPLY IN SUPPORT OF MOTION TO DE-DESIGNATE RESTRICTED MATERIALS (De-Designated)

The Settling Devotional Claimants' motion to de-designate Restricted information should be granted.

I. Ryan Galaz's "Desire" Is Not a Basis to Seal.

The sole reason offered by Multigroup Claimants for the filing of three "Transfers of Ownership Interests" under seal is that "Multigroup Claimants' principal, Ryan Galaz, does not desire it to be a matter of public record that he is the owner of Multigroup Claimants …." Multigroup Claimants' Opposition at 5. That is not sufficient. A generalized privacy interest in avoiding the public eye is not sufficient to warrant the sealing of judicial records. *Johnson v. Greater Southeast Community Hosp. Corp.*, 951 F.2d 1268, 1278 (D.C. Cir. 1991) ("[W]e do not think it sufficient merely to allude to the Hospital's general interest in keeping peer review processes out of the public eye. That rationale sweeps far too broadly …."). Rather, the party seeking to keep records under seal must "come forward with specific reasons why the record, or any part thereof, should remain under seal." *Id.* Multigroup Claimants has not done so.

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II. All Applicable Legal Requirements Favor Disclosure.

A. The Judges' Regulations Require Disclosure of Multigroup Claimants' Identity.

When Worldwide Subsidy Group filed the joint claims at issue in this proceeding, it was required, as the "person or entity filing the joint claim," to provide its "name, telephone number, full mailing address, and email address …." 37 C.F.R. § 360.4(b)(2)(iii). "In the event … the person or entity filing the claim changes after the filing of the claim, the filer … shall notify the Copyright Royalty Board of the change." 37 C.F.R. § 360.4(c). Therefore, when Worldwide Subsidy Group transferred its purported right to pursue the joint claims to Alfred Galaz dba Multigroup Claimants, Alfred Galaz was required to (and failed to) notify the Copyright Royalty Board of the change.

When Alfred Galaz conveyed the assets associated with Multigroup Claimants either to Worldwide Subsidy Group (according to Alfred Galaz's declaration) or to Ryan Galaz (according to the "Transfer of Ownership Interests" dated January 1, 2018), the new owner was required to notify the Copyright Royalty Board of the change. There is no right to proceed before the Copyright Royalty Board anonymously or through an unregistered pseudonym.

The requirement to disclose the filer's identity also implies a right for the Judges' to inquire and seek corroboration when circumstances require. Multigroup Claimants asserts that Ryan Galaz's "interest is already corroborated in federal tax filings for 2018 and afterward …." Opposition at 5. There are two problems with this statement: First, Ryan Galaz's interests are not "corroborated" by any tax filings, because he has not presented any tax filings as corroboration. Second, if Ryan Galaz were to present tax filings as corroboration, what would they "corroborate"? Would they "corroborate" that Ryan Galaz owns the assets of Multigroup Claimants, or that Worldwide Subsidy Group owns the assets of Multigroup Claimants? Would

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they "corroborate" Alfred Galaz's plainly false statement on his bankruptcy petition that Worldwide Subsidy Group was "inactive, $0 FMV" at the time of its transfer? Would they show the massive outflow of assets from Worldwide Subsidy Group to RTG, LLC, and would they show how RTG, LLC treated those no-consideration transfers for tax purposes? Multigroup Claimants cannot simply assert "corroboration" without providing the documents that might answer these many open questions.

B. Applicable State Law Requires Disclosure of Worldwide Subsidy Group's Members and Multigroup Claimants' Identity.

Texas law requires a limited liability company to identify each of its members in an annual public information report. Although identification of members of a limited liability company is not expressly listed among the information required by Tex. Tax Code § 171.203(a), Tex. Tax Code § 171.203(b) requires the limited liability company to "file the report once a year *on a form prescribed by the comptroller*" (emphasis added). The prescribed form (attached to the Declaration of Wesley Crowley) requires the limited liability company to identify the "[n]ame, title and mailing address of each … *member* …" of the limited liability company. This state law requirement strongly favors public filing. *See Emess Capital, LLC v. Rothstein*, 841 F. Supp. 2d 1251, 1256 (S.D. Fla. 2012) (denying request to seal names of LLC members. "[T]he corporate records of an LLC, which list its members, are publicly available through the Delaware Secretary of State.").

According to Multigroup Claimants, the only reason that Ryan Galaz was not identified in Worldwide Subsidy Group's public information report for 2018 was that Worldwide Subsidy Group's tax accountant, Wesley Crowley, "erringly" identified Alfred Galaz and Ruth Galaz (and apparently forged Alfred Galaz's typewritten signature). Crowley Decl. ¶ 4. Not explained is why Worldwide Subsidy Group has not filed a correction or why it believes it is entitled to

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enlist the Judges' aid in concealing Mr. Crowley's "error," or the seemingly endless series of "errors" in public information reports and Alfred Galaz's bankruptcy petition, all of which coincidentally had the effect of obscuring Ryan Galaz's alleged ownership. The fact that Worldwide Subsidy Group's public information reports are allegedly erroneous is a factor in favor of disclosure, not a factor in favor of sealing.

Multigroup Claimants asserts that Massachusetts law, which requires a person using an assumed business name to file a public certificate (Mass. Gen. Law ch. 110 § 5), "does not apply" in this case, because, according to Multigroup Claimants, it is "a dba of a Texas limited liability company." Opposition at 11. But this is the very assertion that the "Transfer of Ownership Interest" dated January 1, 2018, contradicts. While Multigroup Claimants publicly holds itself out to be a dba of Worldwide Subsidy Group, its Restricted submissions suggest that the assets were conveyed to Ryan Galaz individually. If the Restricted documents are genuine, then Massachusetts law applies, and Ryan Galaz's identity cannot lawfully be kept confidential. (Texas law, like Massachusetts law, also requires a person or entity doing business under an assumed name to file an assumed name certificate. *See* Tex. Bus. & Comm. Code, tit. 5, §§ 71.015 and 71.101.)

III. The Privacy Act Is Inapplicable to the Copyright Royalty Judges' Case Files.

The Copyright Royalty Board is not an "agency" within the meaning of the Privacy Act, because it is part of the Library of Congress, in the legislative branch. Therefore, the Privacy Act does not apply to the Judges. 1980 4B Op.O.L.C. 608, 611 (available at https://www.justice.gov/olc/file/626811/download) ("The Copyright Office being a component of the Library of Congress, therefore, is not within the coverage of the Privacy Act.").

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But even if the Privacy Act applied to the Copyright Royalty Board, it would not apply to records in the public docket. The Privacy Act applies only to records contained in a "system of records," meaning "a group of any records under the control of any agency *from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual*." 5 U.S.C. § 552a(a)(5) (emphasis added). It does not apply to records that are organized and retrieved on some basis other than personal identifiers. "A system of records exists only if the information contained within the body of material is both *retrievable* by personal identifier and actually *retrieved* by personal identifier." *Paige v. Drug Enforcement Admin.*, 665 F.3d 1355, 1359 (D.C. Cir. 2012) (quoting *Maydak v. U.S.*, 630 F.3d 166, 178 (D.C. Cir. 2010)). "[A] group of records should generally not be considered a system of records unless there is actual retrieval of records keyed to individuals." *Henke v. U.S. Dep't of Commerce*, 83 F.3d 1453, 1460 (D.C. Cir. 1996).

The records of copyright royalty proceedings are organized and retrieved by docket number, generally keyed to the years and funds to which the proceedings relate, and not by personal identifier. The Privacy Act has no application to records organized in such a manner. *Id.* at 1462 ("[W]here information about individuals is only being gathered as an administrative adjunct to a grant-making program which focuses on businesses and where the agency has presented evidence that it has no practice of retrieving information keyed to individuals, the agency should not be viewed as maintaining a system of records.").

IV. The *Hubbard* Factors Favor Public Filing.

The factors for sealing records under *United States v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980) apply to adjudications before the Judges for the same reasons they apply to cases before U.S. district courts. "Just as our adversarial system relies on the arguments presented in the

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parties' briefs, our system of judicial review of agency action requires the court to consider the record upon which an agency made its decision." *Financial Stability Oversight Council v. Better Markets, Inc.*, 865 F.3d 661, 667 (D.C. Cir. 2017) (rejecting parties' joint request to keep agency records under seal, and remanding to district court for application of *Hubbard* factors). Other boards with quasi-judicial functions agree. *Mylan Pharmaceuticals Inc. v. Sanofi-Aventis Deutxchland GmbH*, Case IPR2017-01528, 2018 WL 6584640, at *22 (P.T.A.B. Dec. 12, 2018) ("There is a strong public policy for making all information filed in a quasi-judicial administrative proceeding open to the public ….").

The Judges' Protective Order articulates the same standard that the D.C. Circuit applies for sealing court records, the "strong presumption in favor of the public interest in access to the records of the subject proceeding." Protective Order § II; *see also EEOC v. Nat'l Children's Ctr.*, 98 F.3d 1406, 1409 (D.C. Cir. 1996) ("[T]he starting point in considering a motion to [un]seal court records is a 'strong presumption in favor of public access to judicial proceedings.'" (quoting *Johnson*, 951 F.2d at 1277). It would be anomalous if the Judges were to apply the same standard as the D.C. Circuit for public access, but not to apply the same test for the implementation of that standard.

As set forth in the SDC's motion, each of the *Hubbard* factors favors public disclosure. Multigroup Claimants' arguments to the contrary make no sense:

Need for public access. Multigroup Claimants' contention that "only two parties in 22 years have ever expressed discontent with WSG …" (Opposition at 24) is both false and irrelevant. Not a proceeding goes by, including this proceeding, without some former claimant or claimants of Worldwide Subsidy Group coming forward to challenge or protest Worldwide Subsidy Group's authority. *See, e.g.*, Ruling and Order Regarding Objections to Cable and

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Satellite Claims (Oct. 23, 2017), at 10-12 (listing multiple claimants who terminated Worldwide Subsidy Group and contested Multigroup Claimants' derivative authority). Most recently, the Judges granted Multigroup Claimants' motion to amend its petitions to participate in the 2014-17 proceedings after the clearly incensed deputy general counsel of a claimant demanded Multigroup Claimants to "cease and desist" its purported representation. Order Granting Multigroup Claimants' Second Motion to Amend Petition to Participate in Distribution Proceedings and Deeming Underlying Claims Withdrawn, No. 16-CRB-0009 CD (2014-17) (Sep. 12, 2019).

But even if Worldwide Subsidy Group and Multigroup Claimants still have some claimants left who have not yet terminated it, that is a factor *in favor* of public disclosure, to allow more claimants the opportunity to decide for themselves on a complete record whether to allow their interests to continue to be represented by an agent who perennially loses its presumption of validity based on apparently false testimony or fraudulent conduct, who funnels assets to a company controlled in part by a felon convicted of defrauding the Copyright Office,[1] and who allows its tax accountant to file false public information reports, thereby concealing the identity of the nominal agent of the copyright owners and the beneficial recipient of insider transfers. The Judges have previously held that Worldwide Subsidy Group's transfer to Alfred Galaz dba Multigroup Claimants was a "transparent subterfuge." *See* Ruling and Order Regarding Objections to Cable and Satellite Claims (Oct. 23, 2017) at 7. Keeping evidence of the subsequent transfer to Ryan Galaz under seal merely makes the "subterfuge" less "transparent."

[1] The declarations submitted with Multigroup Claimants reply confirm that RTG, LLC is controlled in part by Raul Galaz, particularly with respect to assets funneled from Worldwide Subsidy Group, regardless of whether he was an "Authorized Member," as appears on public documents.

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Extent of previous public access. Multigroup Claimants argues that Ryan Galaz's identity as an owner of Worldwide Subsidy Group and the assets associated with Multigroup Claimants has not previously been made public. Opposition at 26. But that is only because multiple public filings by Worldwide Subsidy Group and its principals are *false*. This factor does not support keeping conflicting information hidden.

Identity of persons objecting to disclosure. This factor strongly favors disclosure where the identity of the person objecting to disclosure is unknown. Multigroup Claimants argues that "the objection is made by Multigroup Claimants, a legal entity," and not by "the non-party current and former individual owners …." Opposition at 26-27. But the very information sought to be Restricted purports to show that the assets associated with Multigroup Claimants are now owned by an individual, Ryan Galaz, and not by Worldwide Subsidy Group, an entity.

Strength of property and privacy interests. Multigroup Claimants asserts only the general "privacy interest that is afforded to all persons in our society …." Opposition at 27. But under applicable law, an agent in copyright royalty proceedings has no protectable privacy interest in its identity (37 C.F.R. § 360.4(c)), a limited liability company has no protectable privacy interest in the identity of its members (Tex. Tax Code § 171.203(b)), and a user of an assumed business name has no protectable right not to make that information public (Mass. Gen. Law ch. 110 § 5).

Possibility of prejudice. Multigroup Claimants does not even address the fifth *Hubbard* factor, "the possibility of prejudice to those opposing disclosure," and has still articulated no possible prejudice that would flow from public disclosure of information that should already have been disclosed publicly.

Purposes for which the information was introduced. Multigroup Claimants introduced the "Transfers of Ownership Interests" in response to the Judges' Order to Show Cause, for the

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Judges' consideration as to whether Multigroup Claimants should be disqualified. Because the Judges will use these documents as part of their decision-making process on a highly consequential matter before them, there is a strong public interest in the public filing of these documents, so that the Judges' final decision can be understood and reviewed. *See Financial Stability Oversight Council*, 865 F.3d at 667.

V. The SDC Have Not Improperly Revealed Any Restricted Information.

In the public version of the SDC's motion, the SDC's counsel redacted all information contained in the "Transfers of Ownership Interests." The SDC will set forth their position on the adequacy of their redactions more fully when they file their opposition to Multigroup Claimants' Emergency Motion for Removal from Public Record, and Sanctions.

VI. Conclusion

The SDC's motion to de-designate the information that Multigroup Claimants designated as Restricted should be granted.

Date: March 25, 2020

Respectfully submitted,

/s/ Matthew J. MacLean

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Certificate of Service

I certify that on March 25, 2020, I caused the foregoing to be served on all parties by filing through the eCRB system.

/s/ Matthew J. MacLean
Matthew J. MacLean

Before the
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The Library of Congress

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DISTRIBUTION OF CABLE ROYALTY FUNDS	**CONSOLIDATED DOCKET NO. 14-CRB-0010-CD/SD (2010-13)**
DISTRIBUTION OF SATELLITE ROYALTY FUNDS	

DECLARATION OF MATTHEW J. MACLEAN

I, Matthew J. MacLean, hereby state and declare as follows:

I am a litigation partner in the law firm Pillsbury Winthrop Shaw Pittman LLP. I represent the Settling Devotional Claimants ("SDC") in this matter.

The redacted portions of pages 1-4 and 7-9 of the public version of the SDC's Reply in Support of the SDC's Motion to De-Designate Restricted Materials are submitted as Restricted – Subject to Protective Orders in Docket No. 14-CRB-0010-CD/SD (2010-13) solely because they contain or may be argued to contain information that has been designated as Restricted by Multigroup Claimants either in Exhibits F, G, and H of Multigroup Claimants' Response to Order to Show Cause or in Multigroup Claimants' Opposition to the SDC's Motion to De-Designate Restricted Materials.

I hereby declare under penalty of perjury that the foregoing is true and correct. Executed March 25, 2020, in Vienna, Virginia.

/s/ Matthew J. MacLean
Matthew J. MacLean

Proof of Delivery

I hereby certify that on Monday, June 29, 2020, I provided a true and correct copy of the Settling Devotional Claimants' Reply in Support of Motion to De-Designate Restricted Materials (De-Designated) to the following:

Multigroup Claimants (MGC), represented by Brian D Boydston, served via ESERVICE at brianb@ix.netcom.com

National Association of Broadcasters (NAB) aka CTV, represented by John Stewart, served via ESERVICE at jstewart@crowell.com

Canadian Claimants Group, represented by Victor J Cosentino, served via ESERVICE at victor.cosentino@larsongaston.com

MPA-Represented Program Suppliers (MPA), represented by Gregory O Olaniran, served via ESERVICE at goo@msk.com

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Signed: /s/ Matthew J MacLean