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Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of	)	
	)	
Distribution of	)	CONSOLIDATED DOCKET NO.
Cable Royalty Funds	)	14-CRB-0010-CD/SD
	)	(2010-2013)
In the Matter of	)	
	)	
Distribution of	)	
Satellite Royalty Funds	)	

MULTIGROUP CLAIMANTS' OPPOSITION TO SDC'S MOTION TO DE-DESIGNATE RESTRICTED MATERIALS

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Multigroup Claimants hereby opposes the *Settling Devotional Claimants' Motion to De-Designate Restricted Materials*, as follows:

INTRODUCTION

On February 28, 2020, Multigroup Claimants, an assumed business name of Worldwide Subsidy Group, LLC, filed its *Response to Order to Show Cause*. Therein, Multigroup Claimants designated three exhibits as "Restricted Materials", pursuant to Section III. of the protective orders that, respectively, address the 2010-2013 cable and 2010-2013 satellite proceedings.1 According to those protective orders:

> "In protection orders in prior proceedings, the Judges have defined "confidential information" to include proprietary or private business information, in any form or format, the disclosure of which would damage the Producing Party, ... The Judges adopt the same definition for the instant proceeding."

See Section III of protective orders.

On March 2, 2020, SDC counsel informed Multigroup Claimants that it objected to the designation of "Restricted Materials". On March 4, 2020, SDC counsel filed its *Motion to De-Designate Restricted Materials*. According to Section V.D. of the protective orders:

> If, . . . (2) a Receiving Party or Reviewing Party wishes to object to the designation of certain information or materials as Restricted, . . . then the Receiving Party or Reviewing Party shall first serve written notice of the proposed disclosure or objection upon counsel for the Producing Party, identifying with particularity each portion of the Restricted material at issue.
>
> * * *

1 Such protective orders were both issued on March 31, 2016, and are substantively identical. The two proceedings were subsequently consolidated pursuant to the Judges' *Order Consolidating Proceedings and Reinstating Case Schedule* (Dec. 22, 2017).

> If a Producing Party declines to acquiesce in the requested disclosure or to agree that the information should not be classified as Restricted material . . . [a] Receiving Party or Reviewing Party may then move the Judges for:
>
> (1) modification of this Protective Order,
>
> (2) a determination that the Restricted material at issue should not remain Restricted, and in the case of a motion by a Reviewing Party, for an order requiring production to it of the Restricted material under the same limitations that apply to a Receiving Party, or
>
> (3) for such other ruling as is appropriate.

Section V.D. of protective orders.

ARGUMENT

A. MULTIGROUP CLAIMANTS HAS ARTICULATED ITS PRACTICAL REASON FOR DESIGNATING THE RESTRICTED MATERIALS.

As set forth in the *Declaration of Brian Boydston*, submitted with Multigroup Claimants' *Response to Order to Show Cause*, the restricted materials include Multigroup Claimants' proprietary or private business information, the disclosure of which could damage Multigroup Claimants and its principals.

More specifically, Multigroup Claimants' principal, Ryan Galaz, does not desire it to be a matter of public record that he is the owner of Multigroup Claimants, any more than he desires any other of his assets to be a matter of public record. While his interest is already corroborated in federal tax filings for 2018 and afterward, such filings are not a public matter, and Mr. Galaz has had no reason to publicly announce his interest in Multigroup Claimants, or the means by which he acquired his interest. Neither Multigroup Claimants nor Mr. Galaz are under a

contractual obligation to report the owners of Multigroup Claimants to any entity, nor a generalized obligation to identify any of their assets. While Mr. Galaz has not denied his interest in Multigroup Claimants, publicly or privately, no reason exists to publicize such interest. Quite simply, Mr. Galaz desires the privacy that is generally afforded to *all other persons*, and nothing less. By definition, failure to afford Mr. Galaz the privacy generally afforded to all other persons does injury to Mr. Galaz.2 **Decl. of Ryan Galaz**.

Nevertheless, the SDC allege an undefined nefarious intent by the designation of private, transfer documents as restricted materials. In fact, no motivation exists, other than Mr. Galaz's desire to keep his assets private. Moreover, and contrary to the assertion of the SDC, *nowhere* is there a legal obligation for Mr. Galaz to publicly report his ownership of Multigroup Claimants. See infra. In fact, absent the Judges' *Order to Show Cause*, which Multigroup Claimants avers inaccurately rested on an inapplicable regulation (see infra), there was no legal obligation for Multigroup Claimants to report its ownership interests to this tribunal, yet having done so, the SDC now demand the *public* release of such information.

B. NO BASIS EXISTS IN THE PROTECTIVE ORDER FOR DE-DESIGNATING THE RESTRICTED MATERIALS ON THE GROUNDS ADVOCATED BY THE SDC.

2 *United States v. Hubbard*, 650 F.2d 293, at 304-305 (D.C. Cir. 1980): "[T]he value assigned by our society to protection against governmental invasions of privacy is not measured solely by the fourth amendment's exclusionary rule. The fourteenth amendment's protection against arbitrary or unjustifiable state deprivations of personal liberty also prevents encroachment upon a constitutionally recognized sphere of personal privacy. The fifth amendment's protection of liberty from federal intrusion upon this sphere can be no less comprehensive. Moreover, "although the scope of privacy interests protected by the Constitution differ from the privacy interests protectible under state law, the concept of a protectible right of privacy has found widespread acceptance in the state law of this country. [citations omitted]."

A glaring issue is "why" the SDC desire the public revelation of the information contained in the restricted materials, as it currently appears to be for no other purpose than to harangue and harass Multigroup Claimants and its principals, former and current. No generalized requirement exists for any individual to publicly report their assets, nor any generalized requirement for a corporate entity to report its owners.3 The information within the restricted materials has not been denied from the SDC or the Judges, and the *public* release of such information will not assist the Judges in the consideration of issues that prompted the *Order to Show Cause*. Literally no advancement of this proceeding will occur as a result of such public revelation, nor does the SDC even purport that such will occur.

Indeed, the SDC ambiguously and summarily assert that revelation of the restricted materials -- which constitute the documented transfers of interests in Multigroup Claimants -- are in the public interest and the interest of MGC-represented claimants. Without citation to any legal authority, and apparently attempting to have the SDC and the Judges police all MGC contractual relationships, the SDC contends that "the public has a legitimate interest in knowing that an agent in copyright royalty proceedings has submitted false information," and "[t]here is a need for the public to be aware of the identity *and potential fraudulent conduct* of agents of copyright owners." SDC motion at 6.

Other than repeatedly making these conclusory statements, no explanation is provided *why* such information would be in the public interest, or the interest of MGC-represented

3 Exceptions exist, of course, such as the reporting of persons who have obtained a requisite share of a publicly-held company, none of which apply to the circumstances at hand.

claimants, or what purpose would be accomplished. Other than the SDC's grand statement that it is bringing its motion "for the benefit of the public", no explanation is provided as to why *public* revelation of the documents matters in the least bit.

Notably, the protective orders do not anticipate revelation of any privately held information solely on the grounds that one party unilaterally believes that it would be "in the public interest" for such information to become public. Indeed, no such generalized public interest can even be shown to exist by the SDC for the obvious reason that, if such public interest existed, then laws would exist that require revelation of such information. As noted, however, no generalized requirement exists for any individual to publicly report their assets, nor any generalized requirement for a corporate entity to report its owners. See infra.

C. THE SDC KNOWINGLY MISSTATES TEXAS LAW, AND KNOWINGLY MISAPPLY MASSACHUSETTS LAW, TO CREATE A FALSE PREDICATE THAT MULTIGROUP CLAIMANTS' OWNERSHIP INFORMATION MUST BE PUBLICLY REPORTED.

Throughout its motion, the SDC repeatedly assert that Multigroup Claimants (a Texas entity) has a legal obligation to publicly report its owners. This is a patent falsehood, for which Multigroup Claimants expressly cautioned the SDC counsel was incorrect, and did so prior to the filing of the SDC's motion.4 Nonetheless, in its zeal to harangue Multigroup Claimants and its

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4 See SDC Exh. 7, at 1-2: "Matt, your statement about Texas law and the filing of Public Information Reports is simply incorrect . . . In fact, there is no requirement in Texas that all of the members be identified, as is the case in most jurisdictions, no more than a corporation is obligated to affirmatively identify all of its owners. Ownership of WSG, a family-owned business, is a private matter, not a public matter, and your assertion of a nefarious purpose based on an incorrect interpretation of Texas law does not warrant our withdrawal of the Restricted clarification."

owners, the SDC knowingly misrepresent the content of Texas law, and further misapply Massachusetts law.

Specifically, the SDC assert that "[a]s a Texas limited liability company, Worldwide Subsidy Group was required by Tex. Tax Code § 171.203 to file a public information report annually." SDC motion at 3. This assertion is correct. Notwithstanding, the SDC *then* fail to detail such tax code provision, and instead cite to the public information report form, editing language in that document for the purpose of providing the misimpression that "each member" of an LLC must be identified on such report. Such distortion of the tax code was immediately obvious to Multigroup Claimants, was known by SDC counsel, and will be one of the bases of a motion for sanctions against the SDC and its counsel, filed simultaneously herewith.

In fact, Texas Tax Code § 171.203 states, in pertinent part:

> (a) *A* corporation, *limited liability company*, limited partnership, or professional association on which the franchise tax is imposed, regardless of whether the entity is required to pay any tax, *shall file a report with the comptroller containing*:
>
> * * *
>
> (3) *the name, title, and mailing address of each person who is*:
>
> (A) *an officer or director of the* corporation, *limited liability company*, or professional association on the date the report is filed and the expiration date of each person's term as an officer or director, if any; and
>
> (B) a general partner of the limited partnership on the date the report is filed;
>
> * * *

Tex. Tax Code § 171.203.

As the foregoing reflects, *nowhere* is there a requirement that each member (i.e., owner) of a limited liability company be identified in the annual public information report, merely any "officer or director".5 Given this fact, and the SDC's brazen misrepresentation of this Texas statute, and the SDC's creative editing of the public information report form, no doubt is left that the SDC and its counsel were fully aware that no such requirement existed to report "all members". Nor can the SDC assert a lack of familiarity with the applicable Texas statute, as SDC counsel Matthew MacLean *expressly cited to this statute* in correspondence with Multigroup Claimants prior to filing the SDC's motion, as well as in its motion.6

Secondarily, the SDC cite to Massachusetts law. At page 5 of its brief, the SDC assert:

> "Under Massachusetts law, where Ryan Galaz resides, a person conducting business under an assumed name is required to file a certificate publicly in the city or town where the person does business. See Mass. Gen. Law ch. 110 § 5:
>
> > Any person conducting business in the commonwealth under any title other than the real name of the person conducting the business, whether individually or as a partnership . . . .

Notwithstanding, merely by his ownership in Multigroup Claimants, which is a dba of a Texas limited liability company, Ryan Galaz has not "conducted business under an assumed name . . . either individually or as a partnership", such provision on its face does not apply, and the SDC's citation to such provision under the false suggestion that Ryan Galaz has utilized "Multigroup

5 This provision is for the obvious purpose of informing the public of which individuals are authorized to act on behalf of the limited liability company. Consequently, discrepancies between the publicly-reported "officers and directors" and the actual "officers and directors" can *only* work to the detriment of the limited liability company.

6 See SDC Exh. 7, at 1: "Brian, the filing of the public information report is required by Tex. Tax Code § 171.203. . . ."

Claimants" as an assumed name for *himself* only gives further credence to the intended misrepresentations put forth by the SDC and its counsel. An obvious question then, is *why* the SDC conspicuously cited to Massachusetts law.7

Multigroup Claimants can only presume that the SDC's knowing misrepresentation of Texas law, and knowing misapplication of Massachusetts law, was for the purpose of establishing that there is a "public interest" in the revelation of ownership in a corporate entity. As demonstrated, however, there is none, unless statutes would have been established requiring such information to be publicly reported.

D. THE SDC SEEK PUBLIC REVELATION OF INFORMATION THAT IS NOT REQUIRED TO BE PRODUCED ACCORDING TO ANY CONTRACT, CRB REGULATION, OR CRB RULING.

1. Multigroup Claimants has no contractual obligation to report its ownership, or the documentation of transfers.

As WSG already addressed in its *Response to Order to Show Cause*:

> "[N]o requirement existed in any IPG client agreement to inform any represented copyright owner regarding changes in IPG *ownership*, much less the ownership of any subsequent transferee of interests, such as Multigroup Claimants. [fn. omitted]. In fact, and even as to the issue of IPG's transfer of interests to any other entity such as Multigroup Claimants, the Judges had already observed, months prior, that no restriction existed on IPG's authority to convey collection

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7 As will be detailed in the motion for sanctions filed simultaneously herewith, the real purpose for the SDC's mention of Massachusetts law, and to include its Exhibits 5 and 6, was to expose the very information that Multigroup Claimants deemed confidential.

> rights to any such third party. See *Ruling and Order Regarding Objections to Cable and Satellite Claims*, at 16 (Oct. 23, 2017). See Decl. of Boydston."

Consequently, no plausible interest exists for MGC-represented claimants in the public revelation of Multigroup Claimants' current ownership or means of transfer, and even if there were, such were interests that could have been negotiated by such parties, but were not.

2. No CRB regulation obligates Multigroup Claimants to report its ownership, or the documentation of transfer.

In their *Order to Show Cause,* the Judges expressly and exclusively relied on an SDC argument, first raised in the SDC's reply brief in support of its *Motion for Order to Show Cause,* asserting that the dictate of 37 C.F.R. § 360.4(c) is "very clear" that Multigroup Claimants was obligated to inform the Judges as to changes in its ownership.8 Because such argument was first raised in the SDC's reply brief, a product of sandbagging, Multigroup Claimants was provided no opportunity to address it until responding to the Judges' *Order to Show Cause*.

In fact, 37 C.F.R. § 360.4(c) is entirely inapplicable. As made clear within that regulation and the preceding regulations, that provision refers to and applies to "claims" filed by copyright owners "during the month of July each year", i.e., the "July claims". It does not apply to participants engaged by the copyright owners to represent them in these proceedings and,

8 Indeed, even a cursory review of the "July claims" filings made by SDC members in this proceeding reveals that they have not complied with 37 C.F.R. § 360.4(c), as from one year to the next the claimant's addresses are changed without notification to the CRB. *Cf.* 2010 and 2013 claims of Crystal Cathedral Ministries, Inc., Messianic Vision, WCLF-TV, and WHBR-TV. While Multigroup Claimants would not advocate *dismissal* of those claimants based on such violation – as the SDC has advocated here – the point remains that technical violations have nonetheless occurred and would warrant similar treatment of those claimants.

notably, Multigroup Claimants did not file *any* "July claims" applicable to the 2010-2013 royalty pools.

3. The CRB has previously ruled that parties have no obligation to report their ownership, or the documentation of transfer.

In this very proceeding, the Judges ruled that the SDC's respective members were under no obligation to produce documents reflecting their ownership or structure to Multigroup Claimants. See *Order Granting in Part and Denying in Part Multigroup Claimants' Motion to Compel Production by Settling Devotional Claimants* at 4 (Sept. 14, 2016). *Ipso facto*, Multigroup Claimants would not have had any obligation to inform or update any party on its ownership status, any more than other parties (such as the SDC) had an obligation to update Multigroup Claimants.

Consequently, Multigroup Claimants has no contractual or legal obligation to report either its ownership or its transfer of ownership, *to anyone*. While Multigroup Claimants nevertheless complied with the Judges' *Order to Show Cause* requiring such information, such requirement remains in stark contrast to the requirements placed on *any other party* to this proceeding, a fact that should remain at the forefront of the Judges' consideration.

E. ANY DISCREPANCY BETWEEN PUBLIC FILINGS IDENTIFYING THE MEMBERS OF WORLDWIDE SUBSIDY GROUP, LLC, AND THE DOCUMENTS PRODUCED IN RESPONSE TO THE ORDER TO SHOW CAUSE, ARE OF ZERO CONSEQUENCE, AND WERE NOT THE PRODUCT OF ACTIONS BY WSG. SUCH FACT IS VALIDATED BY WSG'S TAX PROFESSIONAL, AND DO NOT CORRESPONDINGLY WARRANT THE PUBLIC RELEASE OF WSG'S TRANSFER DOCUMENTS FILED UNDER SEAL.

In its motion, the SDC correctly point out that discrepancies exist between various public filings identifying WSG's members, and the owners demonstrated in transfer documents filed

under seal with the Judges. Specifically, public information reports filed with the Texas Franchise Tax Board for 2017-2019, and a bankruptcy petition filed by Alfred Galaz in May 2019, identify different members than actually exist for WSG during those years, or mischaracterize WSG as having "partners" or "directors". The SDC assert that the discrepancies between WSG's transfer documents were intentional, and that "the public has a legitimate interest in knowing that an agent in copyright royalty proceedings has submitted false information." SDC motion at 6.

Without citation to *any* authority for such propositions, the SDC contend the following:

> "There is a need for the public to be aware of the identity *and potential fraudulent conduct* of agents of copyright owners claiming the right to millions of dollars of copyright royalties collected by an agency of the federal government."
>
> "The public has a right to know *who claims and receives the benefit of large distributions of funds collected by the government*, and how the Judges reach their determinations as to who may claim and receive such funds."

SDC motion at 7 (emphasis added). Indeed, the SDC *but again* allege an underlying fraudulent intent, and secondarily make an argument that, if adopted, would make public all distributions to participants in these proceedings previously held confidential from the public eye.

The SDC first premises its argument on its (incorrect) assertion that Texas law requires the annual revelation of each member of a limited liability company. As such, according to the SDC, the discrepancies *must* be a product of fraud. As noted above, neither the tax code provision cited by the SDC, nor any other code, requires *any* member of a Texas limited liability company to be publicly identified. See discussion, supra.

Nevertheless, a benign explanation exists for the discrepancies between WSG's Texas "public information reports" and the transfer documents produced as Exhibits F, G, and H to

Multigroup Claimants' *Response to Order to Show Cause*. Texas public information reports are filed with the Texas Franchise Tax Board. They are typically prepared at the time of federal tax return preparation for the prior calendar year, but are prepared for the existing year, i.e., not for the year for which taxes are being prepared. For example, in the preparation of 2016 federal tax returns, public information reports would be prepared and filed in 2017. In the case of WSG, until this year, such public information reports have *always* been prepared by the certified tax professional engaged by WSG (not WSG personnel), and are typically *not even shared with WSG personnel*. This fact is abundantly clear for reasons apparent on the face of those reports. **Decl. of Wesley Crowley**; **Decl. of Raul Galaz**.

WSG's public information reports for 2012 through the present are sequentially attached hereto as **Exhibit 1**.9 As those documents reveal, for each of the six years 2012-2017, two individuals are identified: Denise Vernon as a "member", and Brian Boydston in an unidentified capacity.10 In all but two of those six years, no actual signatory exists, and the report indicates that it is being submitted by "DENISE G VER DENISE G VERNON". Obviously, Ms. Vernon did not misidentify/mistype her own name – in the identical way, on multiple occasions, consistently over the course of several years -- and the appearance of a conflagration of her own

9 Multigroup Claimants does not attach years 2011 and prior, as different owners existed, and going back to 2012 provides an adequate record of how public information reports are being prepared for WSG.

10 Brian Boydston, i.e., the undersigned, has *never* had any ownership interest in WSG, nor does the public information report so reflect. His appearance on the WSG public information reports emanated from when two equal principals of WSG (Denise Vernon and Lisa Katona Fodera) engaged him as a "business manager", expressly for the purpose of settling any disputes regarding business decisions.

name was the product of whatever software was being utilized by WSG's tax professional at the time. On their face, those reports that dramatically misspell Ms. Vernon's name were not prepared by or submitted by Ms. Vernon.

Notwithstanding, while reference to Ms. Vernon as a WSG "member" during 2012-2016 was accurate, in 2017 Ms. Vernon actually executed a public information report that contained the same reference to her and Mr. Boydston, even though she was no longer a member of WSG. Ms. Vernon did so because such document was presented to her at the same time and as part of WSG's 2016 federal tax returns (which required her signature), and confusion existed as to the appropriate persons to be identified on the report. That is, Ms. Vernon executed the document when it was presented to her by WSG's accountant in 2017, believing that it applied to her 2016 membership interest, as all other documents she was being requested to execute in connection with WSG's 2016 tax return. **Decl. of Raul Galaz**

In 2018, WSG engaged a new tax professional (Wesley Crowley, CPA) to prepare its 2017 federal tax returns. During the preparation of 2017 returns (in 2018), such individual filed the 2018 public information report without consulting WSG, and never provided WSG a copy thereof – a fact confirmed both by Mr. Crowley and all WSG representatives. **Decl. of Wesley Crowley**; **Decl. of Ryan Galaz**. Again, such fact is already evident from the face of the document, which erringly identifies Alfred Galaz and Ruth Galaz as both "partners" and "directors" even though WSG does not have either "partners" or "directors". Id. In fact, as a matter of law, limited liability companies do not have "partners" or "directors", the former reference being to the owners of general and limited partnerships, and the latter reference being to directors of corporations. Rather, limited liability companies have "members" and, possibly,

"managers" or "officers".11 The 2018 public information report was therefore inaccurate on its face.

WSG can only speculate as to why Mr. Crowley (or perhaps someone in his office) utilized the terms "partners" and "directors", or why he identified "Alfred Galaz" and "Ruth Galaz" in such capacity, but it was not at WSG's direction. Presumably, Mr. Crowley relied on the member information being used in WSG's 2017 tax return in order to prepare the 2018 public information report, however doing so was inaccurate as the membership had changed. Although Alfred Galaz and Ruth Galaz were erringly identified as "partners" and "directors" (which cannot exist for WSG), and the name "Alfred Galaz" was typed as the signatory of the form, it was never presented to any WSG member or representative, nor had Alfred Galaz or Ruth Galaz ever seen the document until it was presented by the SDC – again, a fact confirmed both by Mr. Crowley and all WSG representatives. **Decl. of Wesley Crowley**; **Decl. of Ryan Galaz**; **Decl. of Alfred Galaz**; **Decl. of Ruth Galaz**.

In 2019, the same tax professional was engaged to prepare WSG's 2018 tax return. Again, such tax professional filed the public information report without consulting WSG, never provided WSG a copy thereof, and despite knowing that Ryan Galaz was the sole owner of WSG (from the 2018 tax return), utilized the information taken from WSG's 2018 public information report rather than WSG's 2018 federal tax return. Consequently, the 2019 report again erringly identifies Alfred Galaz and Ruth Galaz as "partners" and "directors". **Decl. of Wesley Crowley**; **Decl. of Ryan Galaz**; **Decl. of Alfred Galaz**; **Decl. of Ruth Galaz**. By contrast, however, on

11 WSG has not identified any individual by an "officer" title for approximately ten years, and possibly longer. **Decl. of Raul Galaz**.

the 2019 report Mr. Crowley indicated that *he* was the signatory, not any WSG member or representative.12

In sum, while the 2017-2019 public information reports inaccurately identify certain persons as members, partners, or directors, after they had transferred their membership interest, WSG has not engaged in any intentional malfeasance. Indeed, WSG was *entirely unaware* of the discrepancies created at the hand of a prior member for 2017 (Denise Vernon) and the engaged tax professional for 2018-2019, until it was presented such information by the SDC.13 **Decl. of Ryan Galaz**.

As far as the discrepancy between information appearing in the bankruptcy petition of Alfred Galaz and his spouse, Multigroup Claimants has already informed the Judges that no principal or representative of Multigroup Claimants had been aware of the petition until it was brought to their attention at least six months following its filing. See Multigroup Claimants' *Response to Order to Show Cause*, at 3. Such petition erringly indicated that Alfred Galaz

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12 As WSG understands, Mr. Crowley experienced some significant health issues proximate to such time, failed to respond to almost twenty attempts by WSG to contact him, and his services were thereafter terminated. Another tax professional was engaged to complete WSG's 2018 federal tax return, but only after Mr. Crowley had erringly prepared and filed the 2019 public information report (as part of a formalized request for extension) that inaccurately reflected prior members of WSG as "partners" and "directors", rather than identifying the current member or any other designated WSG representative. **Decl. of Ryan Galaz**.

13 In fact, on the one occasion when WSG independently learned of the 2016 public information report identifying Brian Boydston, who had not been the WSG "business manager" since at least 2011 (after Lisa Fodera transferred her interest), WSG filed an amended 2016 public information report, removing Mr. Boydston's name. Notwithstanding, and as the 2017 public information report filed thereafter reflects, Mr. Boydston's name was nevertheless included *again* after WSG's tax professional relied on the 2016 report it had filed the prior year (rather than the amended 2016 report) for preparation of the 2017 report. See **Exhibit 1**.

transferred his interest in WSG to Ruth Galaz – not Ryan Galaz -- on January 1, 2018. SDC *Motion for Order to Show Cause*, at Exhibit 6, at 35. Upon learning of such information, Alfred Galaz was queried regarding such inaccuracy. According to Alfred Galaz, he had provided his bankruptcy legal counsel all of his relevant papers, including the document attached as Exhibit G to Multigroup Claimants' *Response to Order to Show Cause*. Alfred Galaz speculated that such legal counsel simply misread the document, and identified Ruth Galaz, a co-signatory to the document, as the transferee, not Ryan Galaz. When Alfred Galaz revisited the subject following the undersigned's receipt of SDC emails (see Exhibit 7 to SDC *Motion for Order to Show Cause*), and inquired whether he should amend his bankruptcy petition solely to appease parties such as the SDC, he was informed by his bankruptcy legal counsel that because there would be literally zero consequence upon the merits of his bankruptcy filing, counsel considered amendment unnecessary. **Decl. of Alfred Galaz**.

No different than WSG's 2017-2019 public information reports, no representative of Multigroup Claimants was remotely involved with preparation of the bankruptcy petition, or even aware of the bankruptcy petition, much less aware of the inaccuracy contained therein. Multigroup Claimants cannot therefore be attributed with the SDC's accusation of an "submission of false information" when it was not even involved. **Decl. of Ryan Galaz**.

F. THE JUDGES ARE STATUTORILY PROHIBITED FROM RELEASING THE RESTRICTED MATERIALS AND, EVEN IF *HUBBARD* WERE APPLICABLE, THE SDC HAVE IDENTIFIED NO "PUBLIC INTEREST" IN THE PUBLIC REVELATION OF MULTIGROUP CLAIMANTS' OWNERS, OR TRANSFER DOCUMENTS.

1. The SDC engage in an inapplicable "privacy" analysis. The Judges are statutorily prohibited from releasing the restricted materials.

The appropriate analysis as to whether the restricted materials may even be disclosed by the Judges is pursuant to 5 U.S.C. § 552a. Part of the Privacy Act of 1974, such statute prohibits an agency's disclosure of personal information of individuals without consent except in certain circumstances inapplicable to the instant situation. Applied here, the statute squarely prohibits disclosure of the restricted materials.

Specifically, § 552a(b), which is expressly cited in *United States v. Hubbard*, holds that:

> "No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be … [see subparagraphs (1)-(12)].

5 U.S.C. § 552a(b).

The term "record" is defined as follows:

> "any item . . . of information about an individual that is maintained by an agency, including, but not limited to . . . financial transactions . . . that contains his name . . . ."

5 U.S.C. § 552a(a)(4). Consequently, the restricted materials, which identify the owners of WSG and Multigroup Claimants, and their transfer documents, is statutorily prohibited from release.

2. Even if the Hubbard analysis is utilized, no different outcome results.

In advocating for the public release of the restricted materials, the SDC refer the Judges to three cases that adopt the principles set forth in *United States v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980). Entirely distinguishable as cases involving what information and evidence may be sealed in the record of District Court proceedings, as opposed to administrative proceedings, two

of those cases, and the assessment of "public interest", involved the release of records that were procured by criminal warrant, or were created as a result of criminal or quasi-criminal investigations, while the third involved sealing records relating to the peer review machinations of a public hospital.14 Even then, none of the courts held that the records at issue must be released publicly. Those cases simply do not apply here.

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14 *United States v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980), involved a challenge by the Church of Scientology, *inter alia*, to the release of documents seized by the government in connection with a criminal investigation that yielded eleven indictments. Therein, the Court of Appeals reversed a District Court order unsealing the subject documents, and set forth numerous factors to be considered in any determination regarding unsealing documents.

In *EEOC v. Nat'l Children's Ctr*., 98 F.3d at 1406 (D.C. Cir. 1996), the Court of Appeals remanded to the District Court an order sealing a consent decree and certain deposition testimony in order to have the District Court articulate such decision according to the *Hubbard* factors. In such matter, the Equal Employment Opportunity Commission charged the National Children's Center, Inc. with sexual harassment, in violation of Title VII. While remanding the matter for consideration according to the *Hubbard* factors, the Court of Appeals clarified that the District Court's sealing of records was *not* an abuse of discretion. Moreover, and as is pertinent here, the Court of Appeals stated:

> "A court's decrees, its judgments, its orders, are the quintessential business of the institutions. Other portions of the record – *such as documents filed with the court or introduced into evidence – often have a private character*, diluting their role as public business."

Id. at 1409 (emphasis added).

Like the *EEOC* case, *Johnson v. Greater Southeast Community Hosp. Corp*., 951 F.2d 1268 (D.C. Cir. 1991), merely remanded an order sealing records to the District Court in order to articulate the matter according to the *Hubbard* factors, without opining on the District Court's prior sealing of records. Notwithstanding, the Court of Appeals asserted it did so because of the "obvious public interest in being informed about the quality of health care." No remotely comparable public interest exists with identifying the current owner of Multigroup Claimants, or its transfer records.

Hubbard makes clear that the factors to be utilized for sealing records involve the balancing of a person's (whether corporate or non-corporate) right to privacy with the public interest in seeing such records. See *Hubbard* at 304-305. Nonetheless, contrary to the assertion of the SDC, *none* of the cited cases indicate that "the burden is on the party seeking protection to show why the documents should be kept restricted," as the SDC falsely represented. ***No such phrase appears in any of the SDC's cited authorities***.15

Still, *even if* the *Hubbard* analysis were to be utilized, which it should not, no different outcome results, as no "public interest" exists for the public release of Multigroup Claimants' owner or transfer documents.

Need for public access. Multigroup Claimants is an assumed business name of Worldwide Subsidy Group, LLC. WSG has been in existence for 22 years, since 1998. In the course of that existence, not one WSG-represented claimant has ever filed suit against WSG. In fact, despite having to file suit against four former clients, none ever filed a counterclaim against WSG. To the knowledge of WSG's current representatives, only two parties in 22 years have ever expressed discontent with WSG, and the judges are aware of both instances.16 **Decl. of Raul Galaz**.

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15 See, e.g., *Hubbard* at 317 (emphasis added):

> "We acknowledge an important presumption in favor of public access to all facets *of criminal court proceedings* but we conclude that on the record now before us an assessment of the generalized interests here at stake does *not* support a conclusion that the documents at issue should not be retained under seal."

16 The first occurred in 2005, when counsel for two WSG-represented claimants wrote an email to WSG and multiple SDC representatives, prompted by misinformation provided by the current SDC counsel. Specifically, according to Mr. David Joe (counsel to Kenneth Copeland

Consequently, the suggestion that the ownership of WSG is an issue that must be publicly announced for "the benefit of MGC-represented claimants" is a fabrication. WSG has had six prior owners or co-owners that are no longer owners, and not once in 22 years has the identity of WSG's owners been raised as an issue – until now, by the SDC, whom has no contractual relationship with WSG. **Decl. of Raul Galaz**.

Little has therefore changed with the SDC and its counsel, who continue to breach agreements and orders of confidentiality,17 and make unsubstantiated accusations of fraud against WSG representatives. SDC counsel have previously made unsubstantiated accusations of

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Ministries and Benny Hinn Ministries), Barry Gottfried of the law firm Pillsbury, Winthrop, et al. (or its predecessor), secretly contacted Mr. Joe, revealed the contents of a confidential settlement agreement with WSG, then led Mr. Joe to believe that WSG had failed to account for the funds due to one of his clients. That information was incorrect, was quickly revealed as such, and Mr. Joe's clients have remained clients of WSG since 1998. To this day, WSG regrets not filing an action for defamation and breach of contract against Mr. Gottfried, his law firm, and his represented client Christian Broadcasting Network, who persist with their disreputable acts. **Decl. of Raul Galaz**.

The second occurred in connection with claims asserted for non-commercial broadcasts of programming owned by Bob Ross, Inc. Under the mutual misimpression that the last of several agreements between WSG and Bob Ross, Inc. granted WSG continuing authority to seek retransmission royalties on its behalf, WSG made claim, and accounted to Bob Ross, Inc. over the course of several years. After discovering the mutual error, Bob Ross, Inc. (who was represented by counsel to an SDC member) demanded that WSG return to Bob Ross, Inc. the commission amounts that had been retained by WSG. WSG informed Bob Ross, Inc. that it would not do so unless all of the collected royalties were returned to PBS, the payor. That is, if Bob Ross, Inc. theorized that WSG did not have the requisite authority to make the claims from which royalties were generated, then Bob Ross, Inc. was similarly obligated to forfeit any collected monies. Bob Ross, Inc. refused. **Decl. of Raul Galaz**.

17 See Multigroup Claimants' *Motion for Sanctions*, filed simultaneously herewith; see also, Docket no. 2008-2 CRB CD 2000-2003 (Phase II) (Second Remand), *Independent Producer Group's Opposition to Settling Devotional Claimants' Motion for Final Distribution under 17 U.S.C. § 801(b)(3)(A) and Motion for Sanctions* (Aug. 5, 2019).

fraud against WSG representatives Raul Galaz, Denise Vernon, Alfred Galaz, two WSG-engaged expert witnesses, and even the undersigned legal counsel. By its most recent filing, the SDC have now increased that number to seven, adding Ryan Galaz to that list.

According to the SDC, "[t]here is a need for the public to be aware of the identity and *potential fraudulent conduct* of agents of copyright owners claiming the right to millions of dollars of copyright royalties collected by an agency of the federal government." The SDC, however, fail to explain what "potential fraudulent conduct" is involved, has ever occurred, or would be reflected by revealing Multigroup Claimants' owner and transfer documents. *That is because there is none*. The SDC ask that the Judges deem there to be a need for public access to avoid fraudulent conduct, when no person or entity (except perhaps, the SDC) has ever even accused Multigroup Claimants or its principal of "fraudulent" conduct.18 The SDC's argument is circular.

***Extent of previous public access*.** Again, contrary to the SDC's contrived misrepresentation of Texas law, and misapplication of Massachusetts law, there is no requirement that the members of Multigroup Claimants be publicly identified. See discussion, supra. While the SDC asserts that "[m]uch of the information contained in the documents is already contained in other documents that are already made public", it conveniently fails to point out what information it is referencing, *or provide a single example* for which Multigroup

18 According to the SDC, Ryan Galaz's declaration that he is the only principal of RTG, LLC (SDC Exh. 5), and a transfer of title of real property from WSG, LLC to RTG, LLC (SDC Exh. 6), connotes some sort of act that supports its "fraudulent" argument. Obviously, it does not. In fact, and as will be addressed in Multigroup Claimants' motion for sanctions, the SDC's inclusion of its Exhibit 5 and 6 were included for no purpose other than to expose the very information that Multigroup Claimants deemed confidential.

Claimants may respond. In fact, to Multigroup Claimants' knowledge, there is no document that has ever been *publicly* reported that reflects the current owner of Multigroup Claimants, nor any public access to the transfer documents. **Decl. of Ryan Galaz**. Again, the SDC representation is false and fabricated.

Identity of persons objecting to disclosure. The SDC brief transforms this *Hubbard* factor into an entirely different issue. What was pertinent under *Hubbard* was the fact that it was non-party Church of Scientology that was objecting to disclosure. Here, while the objection is made by Multigroup Claimants, a legal entity, the real parties in interest are different, i.e., the non-party current and former individual owners of WSG and Multigroup Claimants, who otherwise have no standing to file objections to the SDC's motion for disclosure.

Strength of generalized property and privacy interests asserted. As an initial matter, the SDC miscite this *Hubbard* factor. See *Hubbard* at 320. Rather, this factor considers that the restricted materials were not obtained from a public source, but rather from a private source, which according to *Hubbard* deems the objecting party's generalized interests "unquestionably strong". Id. Moreover, it must again be noted that Multigroup Claimants produced the restricted materials under objection, and without an opportunity to object to the Judges' reliance on 37 C.F.R. § 360.4(c), comparable to production by a subpoena, warrant, or other court order, as appeared in *Hubbard*.

WSG and Multigroup Claimants have asserted a privacy interest that is afforded to *all* persons in our society and *all* persons involved in this proceeding,19 and which has been expressly articulated by Multigroup Claimants on behalf of itself and its former and current owners. It is sufficient that an individual with a privacy interest in the restricted materials has objected to disclosure, as opposed to an unrelated third party.

Purposes for which the information was introduced. The restricted materials were introduced in response to the Judges' *Order to Show Cause*, which expressly and exclusively relied on 37 C.F.R. § 360.4(c). Albeit Multigroup Claimants contends that this reliance was in error, as such provision has no relationship to the identity of *owners* of a participant, or even the *owners* of a claimant, now that such revelation has occurred the question exists what aspect of the proceeding is advanced or even affected by the *public* (as opposed to restricted) disclosure of information contained in the restricted materials. The simple answer is none.

In sum, the actual *Hubbard* factors, which do not apply to these administrative proceedings, nevertheless all fall in favor of non-disclosure of the restricted materials. Moreover, the *Hubbard* court cautioned about the very situation present here. Almost prophetically, that ruling states:

> "Every court has supervisory power over its own records and files, and access has been denied where court files have become a vehicle for improper purposes. For example, the common-law right of inspection has bowed before the power of a court to insure that its records are not 'used to gratify private spite or promote public scandal' . . . . The public has in the past been excluded, temporarily or

19 See, e.g., *Order Granting in Part and Denying in Part Multigroup Claimants' Motion to Compel Production by Settling Devotional Claimants* at 4 (Sept. 14, 2016) (SDC's respective members were under no obligation to produce documents reflecting their ownership or structure to Multigroup Claimants.)

> permanently, from court proceedings or the records of court proceedings to protect private as well as public interests . . .”

Hubbard at 315, citing *Nixon v. Warner Communications*, 435 U.S. at 589, 598 (1978).

G. THE SDC HAS IMPROPERLY REVEALED INFORMATION TO THE PUBLIC THAT WAS SUBJECT TO THE PROTECTIVE ORDER, AND SHOULD BE SANCTIONED THEREFOR.

In the event that the SDC took issue with Multigroup Claimants’ designation of restricted materials (and actually had a plausible reason to do so), the proper course of conduct was for the SDC to file a motion to de-designate the restricted materials. Notwithstanding, despite the fact that Multigroup Claimants followed the strict dictate of the protective orders in order to keep confidential its ownership and the transfer of interests thereto, the SDC’s “public version” of its *Motion to De-Designate Restricted Materials* effectively reveals such information, in violation of the protective orders.

Pursuant to a motion for sanctions and motion to strike pleadings, filed concurrently herewith, Multigroup Claimants will seek redress for the SDC’s violation of the protective orders.

CONCLUSION

Multigroup Claimants has produced to the Judges documents that were not required to be produced under contract, not required to be produced under any statute or regulation, and for which the Judges have already ruled the SDC had no corresponding obligation to produce. Despite Multigroup Claimants’ compliance, such production does not now warrant the *public* disclosure of such documents based solely on the SDC’s umpteenth unsubstantiated allegation of

"fraud" based on discrepancies in four filings (over the course of 22 years) that are easily explained and have no consequence on these proceedings.

Multigroup Claimants opposes the SDC motion, and believes that no reasonable basis (or purpose) exists to grant such motion. In the event that the Judges nevertheless elect to grant such motion, Multigroup Claimants would request that the Judges delay implementation thereof for a period of two weeks following issuance of such order.

Respectfully submitted,

March 18, 2020

_____/s/_____

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th of March, 2020, a copy of the foregoing was filed with the eCRB system, and therefore sent by electronic mail to the parties listed on the attached Service List.

_____/s/_____
Brian D. Boydston, Esq.

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

MPAA-Represented Program Suppliers (MPAA), represented by Lucy H Plovnick, served via Electronic Service at lhp@msk.com.

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

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Joint Sports Claimants (JSC), represented by Ritchie T. Thomas, served via Electronic Service at ritchie.thomas@squirepb.com.

Settling Devotional Claimants (SDC), represented by Matthew MacLean, served via Electronic Service at matthew.maclean@pillsburylaw.com.

Proof of Delivery

I hereby certify that on Tuesday, June 30, 2020, I provided a true and correct copy of the Multigroup Claimants' Opposition To Sdc's Motion To De-Designate Restricted Materials to the following:

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

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Signed: /s/ Brian D Boydston