

COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DISTRIBUTION OF CABLE
ROYALTY FUNDS**

CONSOLIDATED DOCKET NO.
14-CRB-0010-CD/SD
(2010-13)

In re

**DISTRIBUTION OF SATELLITE
ROYALTY FUNDS**

**ORDER GRANTING SDC MOTION TO DE-DESIGNATE AND DENYING
WORLDWIDE SUBSIDY GROUP LLC'S MOTION FOR SANCTIONS**
[Public Version]

On March 4, 2020, the Settling Devotional Claimants (SDC) filed with the Copyright Royalty Judges (Judges) a Motion to De-Designate Restricted Materials ([Motion to De-Designate](#)). The SDC invoke the process established in section V.D of the March 31, 2016 protective order¹ in this proceeding (*Protective Order*) to remove the restricted designation from material in the February 28, 2020 response of Worldwide Subsidy Group LLC d/b/a Multigroup Claimants² (WSG) ([WSG Response to Order to Show Cause](#)) to the Judges' February 24, 2020 *Order to Show Cause Why Multigroup Claimants Should Not Be Disqualified as an Agent to Receive Funds on Behalf of Claimants* ([Order to Show Cause](#)).

WSG filed its response in opposition to the Motion to De-Designate ([WSG Opposition](#)) on March 18, 2020, together with several supporting declarations and a motion for leave to file a brief in excess of the page limit ([Motion for Leave](#)³). On the same day, WSG filed a document entitled "Multigroup Claimants' Emergency Motion for Removal from Public Record, and Sanctions against SDC and its Counsel" ([Motion for Sanctions](#)).⁴ The SDC filed its reply ([SDC Reply](#)) on March 25, 2020, and its response in opposition to the Motion for Sanctions ([SDC Opposition](#)) on March 27, 2020. WSG filed its reply in support of the Motion for Sanctions ([WSG Reply in Support of Motion for Sanctions](#)) on April 3, 2020.

¹ The Judges issued separate, substantively identical protective orders in the [cable](#) and [satellite](#) proceedings on March 31, 2016. The Judges subsequently consolidated the distribution phase proceedings for cable and satellite, so both protective orders apply. For simplicity, the Judges refer to them collectively as the *Protective Order*.

² As discussed below, both Alfred Galaz and Worldwide Subsidy Group LLC have used "Multigroup Claimants" as an assumed business name in the course of this proceeding. In order to minimize confusion, the Judges will refer to Alfred Galaz d/b/a Multigroup Claimants as "Alfred Galaz" and Worldwide Subsidy Group d/b/a Multigroup Claimants as "WSG" in this Order, unless the context dictates otherwise.

³ The Motion for Leave was unopposed.

⁴ WSG states that it filed the Motion for Sanctions "on an emergency basis." There is no provision in the Judges' procedural rules for filing a motion on an emergency basis.

On April 23, 2020, the SDC filed a “Motion to Supplement Motion to De-Designate Restricted Materials and Opposition to Multigroup Claimants’ Emergency Motion for Removal from Public Records and Sanctions against SDC and its Counsel” ([Motion to Supplement](#)). WSG responded the following day with a motion to strike the Motion to Supplement ([Motion to Strike](#)). The SDC filed a response in opposition to the Motion to Strike ([SDC Opposition to Motion to Strike](#)) on April 27, 2020. WSG filed a reply in support of its Motion to Strike ([WSG Reply in Support of Motion to Strike](#)) on May 6, 2020, and filed a response in opposition to the Motion to Supplement ([WSG Opposition to Motion to Supplement](#)) on May 7, 2020. The SDC filed a reply ([SDC Reply in Support of Motion to Supplement](#)) on May 12, 2020.

For the reasons discussed in this Order, the Judges

DENY the Motion to Strike;

GRANT the Motion to Supplement;

GRANT the Motion for Leave;

GRANT the Motion to De-Designate; and

DENY as MOOT the Motion for Sanctions.

Background

Dramatis Personae

The motions presently under consideration involve the following entities, assumed business names, and individuals.

Entities

Worldwide Subsidy Group LLC (WSG) – WSG is a limited liability company owned primarily by various members of the Galaz family over the past two decades and apparently operated primarily by Raul Galaz in an unknown capacity. WSG is the party that has entered into representation agreements with the copyright owners represented by Alfred Galaz in this proceeding. As noted below, WSG assigned its rights to collect royalties for certain years to Alfred Galaz.

RTG, LLC (RTG) – RTG is a limited liability company owned by Ryan Galaz. Raul Galaz appears to be involved with RTG and has acted on RTG’s behalf in matters involving real estate in Florida. RTG is engaged in litigation in Texas against Lisa Katona Fodera.

Assumed Business Names

Multigroup Claimants (MGC) – MGC has been used in this proceeding as an assumed business name for both Alfred Galaz, as a sole proprietor, and, more recently, for WSG.

Spanish Language Producers (SLP) – SLP was another assumed business name for Alfred Galaz, as a sole proprietor, early in this proceeding. After SLP withdrew its request to create a separate claimant category in the allocation phase for Spanish-language programming, SLP assigned its interest to MGC.

Independent Producers Group (IPG) – IPG is an assumed business name of WSG.

Individuals

Raul Galaz – Raul Galaz appears to be the founder of WSG. While Raul Galaz’s current formal position, if any, with WSG is unknown, he appears to be the principal person conducting WSG’s business, and appeared to be the principal person conducting business on behalf of Alfred Galaz earlier in this proceeding.

Lisa Katona Fodera – Lisa Fodera is Raul Galaz’s ex-wife, Ryan Galaz’s mother, a former member of WSG, and a defendant in a civil action in Federal District Court in Texas brought by RTG.

Alfred Galaz – Alfred Galaz is Raul Galaz’s father and a former owner of a 99% interest in WSG. Alfred Galaz filed petitions to participate and participated in this proceeding under the assumed business names of MGC and SLP. WSG transferred the right to collect royalties under its representation agreements with copyright owners to Alfred Galaz d/b/a MGC and SLP in 2015 for royalty years from and after 2010. Alfred Galaz filed for bankruptcy in the Northern District of Oklahoma (along with his wife, Lois May Galaz) on May 28, 2019.

Lois May Galaz – Lois May Galaz is currently married to Alfred Galaz and is a signatory (along with Alfred Galaz) to a petition for bankruptcy filed in the Northern District of Oklahoma on May 28, 2019.

Ruth Galaz – Ruth Galaz is Alfred Galaz’s ex-wife and Raul Galaz and Denise Vernon’s mother. Ruth Galaz formerly owned a 1% interest in WSG and is named (apparently incorrectly) in Alfred Galaz’s bankruptcy petition as the assignee of his interest in WSG.

Ryan Galaz – Ryan Galaz is Raul Galaz’s son. He is the transferee of Alfred Galaz’s interest in MGC and SLP, and of Alfred Galaz’s and Ruth Galaz’s interests in WSG. Ryan Galaz is also assertedly the sole owner of RTG.

Denise Vernon – Denise Vernon is Raul Galaz’s sister and a former owner of a 99% interest in WSG that she conveyed to Alfred Galaz. Ms. Vernon was for a time one of the principal people carrying out WSG’s business, but appears to have withdrawn from any active role in the company.

Order to Show Cause

On December 26, 2019, the SDC disclosed that Alfred Galaz, a participant in this proceeding under the assumed business name “Multigroup Claimants,” and his wife Lois May Galaz had filed a bankruptcy petition in the Northern District of Oklahoma earlier that year. *See generally* Settling Devotional Claimants’ Motion for Order to Show Cause Why Multigroup Claimants Should not be Disqualified as an Agent to Receive Funds on Behalf of Claimants (Dec. 26, 2019) ([Motion for Order to Show Cause](#)). In his petition, Alfred Galaz had not listed Multigroup claimants among businesses in which he held an interest, and he had stated that he no longer held an interest in WSG. *See id.* at 5-7. The SDC questioned “Multigroup Claimants” authority to act on behalf of copyright claimants and asked the Judges to issue an Order to Show Cause why Alfred Galaz and Multigroup Claimants should not be disqualified and debarred from participating in royalty distribution proceedings for a number of alleged improprieties. *See id.* at 7-9, 13-14. The Judges issued the *Order to Show Cause* and later sought [additional briefing](#) by the parties. The Judges’ resolution to the issues raised in the *Order to Show Cause* is set forth in a separate order filed today.

WSG designated its response as “restricted” under the *Protective Order* and filed a heavily-redacted [public version](#) of its response that omitted three exhibits purporting to document transfers of interests in WSG, MGC, and SLP:

- Exhibit F—Instrument transferring Denise Vernon’s interest in WSG to Alfred Galaz, effective January 1, 2017;
- Exhibit G—Instrument transferring ownership of WSG from Alfred Galaz and Ruth Galaz to Ryan Galaz, effective December 31, 2017; and
- Exhibit H—Instrument transferring Alfred Galaz’s right, title, and interest in MGC and SLP to Ryan Galaz, effective January 1, 2018.

Counsel for WSG filed a declaration stating, “The Restricted Materials have been so designated because they include Multigroup Claimants proprietary or private business information, the disclosure of which could damage Multigroup Claimants and its principals.” [Declaration of Brian Boydston](#) ¶ 2 (Feb. 28, 2020). As discussed below, through subsequent filings it has become apparent that the “proprietary or private business information” that WSG seeks to protect from disclosure is the identity of Ryan Galaz as owner of WSG and Alfred Galaz’s interests in MGC and SLP.⁵

Arguments of the Parties

Motion to De-Designate

The SDC raise several arguments to support the proposition that MGC and WSG have no legitimate expectation that the identity of their owners will remain confidential. *See* Motion to De-Designate at 2-6. The SDC point to a provision of the Texas Tax Code that requires Texas LLCs to file a public information report annually for franchise tax purposes. The prescribed form requires the filer to include the “name, title and mailing address of each ... member” of the LLC. If the 2018 form had been completed correctly it would have identified Ryan Galaz publicly as owner of WSG. It was not. Instead it identifies Alfred and Ruth Galaz as “partners” in WSG. *See id.* at 4, 9.

The SDC also argue that Ryan Galaz would have been identified in Alfred and Lois May Galaz’s bankruptcy petition if it had been completed correctly. It was not. The bankruptcy petition identified Ruth Galaz as the transferee of Alfred Galaz’s interest in “Worldwide Subsidy.” *See id.* at 5.

In addition, the SDC argue that, as the recipient of Alfred Galaz’s interest in Multigroup Claimants, Ryan Galaz was required under the law of Massachusetts (where he resides) to file a fictitious business name certificate. *See id.*

The SDC also argue that the public has a legitimate interest in open proceedings generally and to information about who claims to act as an agent in CRB proceedings specifically. *See id.* at 6-10. The SDC analyze the question using the D.C. Circuit’s six-part test in *U.S. v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980), for determining whether a party seeking to prevent unsealing of records in a judicial proceeding has overcome a strong presumption in favor of public access. *See id.* The SDC conclude that “[t]he public interest in public disclosure of each of these documents is especially clear. The information in each of the exhibits directly

⁵ Since SLP plays no role in this dispute separate from MGC, the Judges will refer only to MGC in the remainder of this Order.

conflicts with other information that Worldwide Subsidy Group or Alfred Galaz has made public Multigroup Claimants, Worldwide Subsidy Group, and the Galaz family cannot permissibly use the Judges' Protective Order to create one narrative in public (whether true or false) while advancing a different and contradictory narrative in restricted filings (whether true or false)." *Id.* at 9-10.

WSG argues that its basis for designating Exhibits F, G, and H as restricted under the Protective Order is that Ryan Galaz "does not desire it to be a matter of public record that he is the owner of Multigroup Claimants" WSG Opposition at 5. WSG asserts that Ryan Galaz is under no legal obligation to report his ownership of WSG/MGC publicly. *See id.* at 6.

WSG disputes that there is any public interest in disclosure of Ryan Galaz's identity as owner of WSG/MGC. "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." *Id.* at 8.

WSG also disputes the SDC's arguments that Texas and Massachusetts law, as well as CRB regulations, require disclosure of WSG's owners:

1. WSG cites language in the Texas statute requiring disclosure of "an officer or director" of an LLC, not all "members." *See id.* at 8-10.
2. As to the wording in the Massachusetts requirement regarding "[a]ny person conducting business in the commonwealth under any title other than the real name of the person conducting the business," WSG argues that "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'" *Id.* at 10-11.
3. WSG takes issue with the Judges' statement in the *Order to Show Cause* that 37 C.F.R. § 360.4(c) required MGC to inform the Copyright Royalty Board of changes in its ownership. WSG argues that the provision applies only to copyright owners, not to "participants engaged by the copyright owners to represent them in these proceedings" *Id.* at 12-13.⁶

WSG acknowledges that there are discrepancies between public filings that identify the members of WSG and the documents that it seeks to keep confidential, but argues that the discrepancies are "of zero consequence" and were not WSG's fault. WSG offers a number of what it describes as "benign" explanations for the discrepancies, such as errors by WSG's tax professional and Alfred Galaz's bankruptcy attorney. *See id.* at 14-20 and declarations cited therein.

In addition, WSG argues that the Judges previously ruled in this proceeding that "the SDC's respective members were under no obligation to produce documents reflecting their ownership or structure" *Id.* at 13 (citing *Order Granting in part Multigroup Claimants' Motion to Compel Production by Settling Devotional Claimants* (Sep. 14, 2016) ([Order on MGC MTC](#))).

⁶ Section 360.4(c) applies to both copyright owners and persons or entities who file claims on behalf of copyright owners. In relevant part, section 360.4(c) states that "[i]n the event the legal name and/or address of ... 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." WSG, as representative of the copyright owners, filed the claims represented by Alfred Galaz in this proceeding. As the filer it was obligated to notify the CRB when it assigned its rights to Alfred Galaz, and Alfred Galaz was obligated to notify the CRB when he assigned his rights to Ryan Galaz.

WSG also raises an entirely new issue, arguing that the Judges are statutorily prohibited from releasing the restricted materials under the Privacy Act of 1974, 5 U.S.C. § 552a(b), which states “[n]o 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” one of a number of exceptions (none of which are pertinent here) applies. *Id.* at 21 (quoting 5 U.S.C. § 552a(b)). WSG notes that the term “record” is defined in section 552a(a)(4) as “any item ... of information about an individual that is maintained by an agency, including, but not limited to ... financial transactions ... that contains his name” *Id.*

Finally, WSG applies the same six-factor *Hubbard* test that the SDC employs and reaches the opposite conclusion. *See id.* at 22-28.

In reply, the SDC argue that Ryan Galaz’s desire to keep his ownership of WSG out of the public record is not a sufficient reason to keep that fact under seal. “[T]he party seeking to keep records under seal must ‘come forward with specific reasons why the record, or any part thereof, should remain under seal.’” SDC Reply at 1.

The SDC reiterate that CRB regulations require the disclosure of any changes to the person or entity who files joint claims on behalf of copyright owners. When WSG, the entity that filed the joint claims represented by Alfred Galaz in this proceeding, assigned the right to represent the claimants to Alfred Galaz, Alfred Galaz was required to inform the CRB of the transfer. Similarly, when Alfred Galaz transferred that right to WSG or Ryan Galaz, the transferee was required to inform the CRB. *Id.* at 2-3.

The SDC acknowledge that the Texas Tax Code does not list members of a limited liability company among the information that must be disclosed in an annual public information report. However, as discussed above, they point out that the law requires an LLC to “file the report once a year on a form prescribed by the comptroller,” and the prescribed form requires the LLC to identify each member. *See id.* at 3.

The SDC dispute WSG’s assertion that the Massachusetts requirement for a person using an assumed business name to file a public certificate is inapplicable. WSG argued that it does not apply because Multigroup Claimants is a d/b/a of a Texas LLC. The SDC notes that the restricted documents indicate that Alfred Galaz transferred his assets to Ryan Galaz individually, not to WSG. If that is correct, then he, and not WSG, is representing the copyright owners, and his identity therefore must be disclosed in a public certificate. *See id.* at 4.

The SDC argue that the Privacy Act of 1974 is inapplicable in this situation. First, the SDC cite to a Department of Justice Office of Legal Counsel (OLC) opinion to argue that the CRB is not an “agency” within the meaning of the Privacy Act because it is part of the Library of Congress, which is a Legislative Branch agency. *See id.* (citing 1980 4B Op. O.L.C. 608, 611 (available at <https://www.justice.gov/olc/file/626811/download>)). Second, the SDC argue that the CRB’s docket does not constitute a “system of records” under the Privacy Act as that term has been interpreted by the courts. *See id.* at 5.

Finally, the SDC once again apply the *Hubbard* factors to support their conclusion that Ryan Galaz’s identity should be disclosed. *See id.* at 5-9.

Motion for Leave

WSG requests permission from the Judges to exceed the 20-page limit for responsive pleadings imposed in section 303.3(c)(2) of the Judges' procedural rules. WSG avers that the Motion to De-Designate "raised a number of factual and legal issues that require extensive discussion" that WSG cannot address adequately within the page limit. Motion for Leave at 2. The SDC did not respond to the Motion for Leave.

Motion to Supplement and Motion to Strike

The SDC's Motion to Supplement seeks to notify the Judges that Alfred Galaz and his wife filed an amended bankruptcy petition on April 17, 2020, that publicly disclosed that Alfred Galaz acquired a 99% interest in WSG on January 1, 2017, and conveyed his interest in the company to Ryan Galaz on December 31, 2017. *See* Motion to Supplement at 1. The amended bankruptcy petition also disclosed that Alfred Galaz conveyed his interest in MGC to Ryan Galaz on January 1, 2018. *See id.* at 2. While the SDC continue to dispute some of the particulars of Alfred Galaz's disclosures, they stress that "the petition now publicly discloses all material information that Multigroup Claimants designated as Restricted, including the names of the transferees and the alleged dates of the transfers." *Id.* at 3. Since the information is now "indisputably public," it is exempted from protection under the terms of the Protective Order. *Id.*

The SDC also argue that WSG has waived any protection under the Protective Order for the materials that the SDC seek to de-designate. The SDC sent a written notice to WSG on April 17, 2020, objecting (again) to WSG's designation of restricted information. WSG did not respond to the SDC's objection within three business days as required under the Protective Order. *See id.* at 3-4. The SDC interpret WSG's failure to respond within the timeframe mandated by the Protective Order as constituting a waiver of its right to object to the de-designation.

WSG initial response to the Motion to Supplement was to file its Motion to Strike, in which it argues that the SDC is seeking to submit additional briefing on its original motion in violation of the Judges' procedural regulations "[u]nder the guise of a 'motion to supplement.'" Motion to Strike at 2. WSG points out that the Judges have already seen the amended bankruptcy petition because WSG submitted a copy of it as an attachment to its [Second Motion for Final Distribution](#) (which the SDC acknowledged in its Motion to Supplement) and states that the SDC is "simply ... offering additional argument, on the false pretext of supplementing the record with evidence that is *already* in the record" *Id.* at 3. WSG goes on to argue that "the very reason that the amended bankruptcy petition was filed by Alfred and Lois Galaz was to address unsubstantiated, defamatory allegations made by SDC counsel Matthew MacLean outside of these proceedings" *Id.* at 4.

Regarding the SDC's waiver argument, WSG argues that the SDC misrepresent the content of the Protective Order. According to WSG, a party's failure to respond within three days to another party's objection to a restricted designation allows the objecting party to file a motion seeking de-designation, not a waiver or automatic de-designation. Moreover, once the objecting party has filed its motion, the other party is not required to respond to repeated objections regarding the same material. *See id.* at 3-4 n.3.

In its response the SDC dispute WSG's contention that their Motion to Supplement included improper or repetitive argument on the underlying motions. Rather, "[i]t was proper

argument on a motion to supplement with new evidence, because it bears directly on whether the Judges should consider the new evidence.” SDC Opposition to Motion to Strike at 2. The SDC analogize to the context of a motion for a new trial, where “a party seeking introduction of new evidence ‘must show that the evidence was not and could not by due diligence have been discovered in time to produce it at trial; that it would not be merely cumulative; and that it would probably lead to a judgment in his favor.’” *Id.* They argue that their motion addressed each of those “new evidence” factors. *See id.*

The SDC also point out that none of WSG’s arguments “is germane to the question of whether the SDC’s motion to supplement should be stricken and that most are repetitive of arguments that are already fully addressed elsewhere.” *Id.* WSG “might disagree with the SDC’s argument, but that is not a reason to strike a motion.” *Id.*

The SDC also dispute WSG’s argument that it wasn’t required to respond to the SDC’s objection under the Protective Order. *See id.* at 2-3. Section V.D of the Protective Order provides that “[i]f a Producing Party declines to acquiesce in the requested disclosure or to agree that the information should not be classified as Restricted material, the Producing Party shall notify the Receiving Party or Reviewing Party in writing the reasons therefor within three (3) business days of receipt of the written notice.” The SDC argue that “[t]he public disclosure of Restricted information constituted a new basis for the SDC to object to the Restricted designation, and therefore warranted the SDC in serving a new objection to the designation”, and that the Protective Order placed an affirmative obligation on WSG to respond to the objection. *Id.* at 3.

In reply, WSG claims, again, that the SDC has not submitted “new” evidence because WSG previously submitted the amended bankruptcy petition. *See* WSG Reply in Support of Motion to Strike at 2. WSG again disputes the SDC’s waiver argument, describing the three-day response period as equivalent to a “meet and confer” requirement. *See id.* at 2-3.

WSG’s opposition to the SDC’s Motion to Supplement repeats the arguments and contentions it made in its Motion to Strike and the WSG Reply in Support of Motion to Strike. The SDC’s reply similarly breaks no new ground.

Motion for Sanctions

WSG’s Motion for Sanctions alleges that the [public version](#) of the SDC’s Motion to De-Designate discloses indirectly the information that WSG had designated as confidential. *See* Motion for Sanctions at 2. WSG seeks to have that document removed from the public record, and seeks sanctions against the SDC, the Pillsbury Winthrop law firm, and Matthew MacLean, the SDC’s lead counsel. *See id.* at 14. In addition, WSG asks the Judges to order all recipients of the public version of the SDC motion immediately to inform WSG of “any non-client persons or entities to whom the motion or its contents were communicated, and provide such communications.” *Id.*

WSG argues that the SDC disclosed confidential information through the following actions:

1. A heading in the Motion to De-Designate (“Multigroup Claimants and Worldwide Subsidy Group Have No Legitimate Interest In Keeping the Identities of their Owners Confidential”) identifies the category of information that WSG had designated as restricted (*i.e.*, the identity of WSG’s owners). *See id.* at 3.

2. The SDC “make evident that a discrepancy exists between the assignee identified in a former owner’s bankruptcy petition, and Multigroup Claimants’ current owner.” *Id.*
3. The SDC refer to Massachusetts law and individuals conducting business there, which could only refer to one member of the Galaz family. *See id.* at 4.
4. Exhibits 5 and 6 to the public version of the Motion to De-Designate, which are fully unredacted, relate to Ryan Galaz and thus disclose his identity. Moreover, the exhibits “have literally *nothing* to do with the issue of whether three documents designated as ‘restricted materials’ should be de-designated,” so their inclusion was intended as “a means to expose the very information that Multigroup Claimants deemed confidential, a blatant breach of the protective orders.” *Id.* at 5-6.
5. “The SDC knowingly misstated Texas Law to create a false predicate that Multigroup Claimants’ ownership information must be publicly reported.” *Id.* at 6.
6. The SDC offered to, but did not, file a substitute public version of the Motion to De-Designate that redacted the reference to Massachusetts law. *See id.* at 11-12.

The SDC argue in response that WSG does not identify any restricted information in the public version of the Motion to De-Designate, contending instead that it reveals “publicly available information that would allow a reader, through a chain of inferences and speculation, to guess at information contained in ‘Restricted’ documents.” SDC Opposition at 2. The SDC respond to WSG’s specific arguments as follows:

1. The section header that WSG quoted reveals no restricted information. “Information revealing only the general subject matter of Restricted documents cannot be Restricted.” *Id.* at 4.
2. The passage in the public version of the Motion to De-Designate that WSG identifies as disclosing a discrepancy between “the assignee identified in a former owner’s bankruptcy petition, and Multigroup Claimants’ current owner” does not disclose restricted information. *Id.* at 6 (quoting Motion for Sanctions at 3). That passage states “Alfred Galaz has already publicly disclosed that he conveyed his interest in [WSG] on January 1, 2018 [redacted], although he claimed in his bankruptcy petition that the conveyance was to his ex-wife, Ruth Galaz.” *Id.* at 5 (quoting Motion to De-Designate at 4). The facts of the conveyance and the identification of Ruth Galaz in Alfred Galaz’s bankruptcy petition are matters of public record. *See id.* at 6. The word “although” “does not necessarily imply a contradiction with the name ‘Ruth Galaz,’ but only something that might be contrary to expectations.” *Id.* at 7. And, “even if the word ‘although’ were sufficient to reveal that Alfred Galaz’s identification of Ruth Galaz as the transferee was false, Multigroup Claimants has no legitimate confidentiality interest in publicly presenting false information as true.” *Id.*
3. The SDC’s statement concerning Massachusetts law “reveals no facts at all. It reveals only the content of Massachusetts law, which is public.” *Id.* at 8. WSG’s claim that the reference to Massachusetts can only relate to Ryan Galaz, because he is the only member of the Galaz family with a connection to the Commonwealth, “is more than the SDC know. It is certainly more than any reader would know without knowledge of Restricted information.” *Id.*
4. Exhibits 5 and 6 are public documents and cannot be filed under seal. *See id.* at 9-10. “Neither document identifies Ryan Galaz as an owner of either [WSG] or [MGC].” *Id.* at 10.

5. The SDC's reference to Texas law does not reveal any restricted information. *See id.* at 7-8. "[T]he passage reveals, at most, the presence of an issue as to the accuracy of public information, not the content of any Restricted information." WSG "has no legitimate confidentiality interest in publicly presenting false information as true." *Id.* at 8. Moreover, WSG's interpretation of Texas Law is incorrect. The statute requires LLCs to file a report annually on a form prescribed by the comptroller. That form requires the LLC to identify each "member" of the LLC. *See id.* at 13-14.
6. The SDC's counsel did offer to file a revised public version of the Motion to De-Designate that redacted reference to Massachusetts law. Counsel to WSG rejected the offer. *See id.* at 9; Declaration of Matthew J. MacLean ¶ 15 (attachment to SDC Opposition). The SDC, therefore, was under no obligation to do so.

The SDC also argue that WSG has no standing to file the Motion for Sanctions because it is not a party to the proceeding. Alfred Galaz was the party, and he transferred all of the assets associated with MGC to Ryan Galaz, not to WSG. *See SDC Opposition* at 2-3.

In addition, the SDC argue that WSG has waived any claim of confidentiality. "[T]he public allegation that [WSG] is "Multigroup Claimants" contradicts the very information that [MGC] contends is 'Restricted.' ... As with waiver of attorney-client privilege through selective disclosure, [WSG] should not be permitted to make tendentious public disclosure while keeping conflicting information 'Restricted.' ... [WSG], having made a selective public representation about its identity as 'Multigroup Claimants,' has waived any right of confidentiality." *Id.* at 3-4.

Finally, the SDC argue that they complied with the Protective Order and that any disclosure of restricted information in the public version of the Motion to De-Designate was unintentional. Consequently, sanctions are not warranted. *See id.* at 11-17.

In reply, WSG reiterates its position that Exhibits 5 and 6 "had *nothing* to do with the documented transfers of WSG or [MGC] that the SDC motion was seeking to be de-designated. That is, no legitimate purpose existed for attaching such documents to the SDC motion." WSG Reply in Support of Motion for Sanctions at 4. WSG argues that the SDC seek to avoid responsibility "by addressing each prohibited revelation in a vacuum, ignoring how each revelation relates to the other" *Id.* at 5.

WSG describes the SDC's standing argument as "a moot technicality" because, in essence, WSG now stands in the shoes of Alfred Galaz. *Id.* at 1.

WSG characterizes the SDC's waiver argument as resting on an assertion that "Alfred Galaz's transfer of all his interests in Multigroup Claimants (a sole proprietorship) meant that Ryan Galaz could only take such entity's interests as a sole proprietorship of Ryan Galaz, instead of folding such interests into WSG, an entity held exclusively by Ryan Galaz." *Id.* at 2. WSG then argues that "the SDC use this remarkably inaccurate predicate to argue that public filings of Multigroup Claimants as a fictitious business name of WSG somehow 'waives' any confidentiality regarding WSG's current ownership" *Id.* at 2-3.

WSG contends at length that the SDC's disclosure of restricted information was not unintentional, but "calculated." It describes the SDC's explanation for including Exhibits 5 and 6 as "rationalization" and takes issue with SDC lead counsel Matthew MacLean for communicating with the U.S. Bankruptcy Trustee in Oklahoma and with opposing counsel to Ryan Galaz's company, RTG, in a lawsuit against his mother, Lisa Katona Fodera. *Id.* at 6-9.

WSG characterizes the actions of the SDC and its counsel as “shameful” and “incendiary,” and SDC’s arguments as “embarrassing.” *Id.*

Discussion and Resolution

Motion to Strike

There is nothing in the Judges’ procedural rules to support the notion that a “motion to strike” is a legitimate procedural mechanism to oppose a motion. A participant opposes a motion by filing a response in opposition as described in 37 C.F.R. §§ 303.3(c)(2), 303.4, and 303.6(f). The Judges **DENY** the Motion to Strike on that basis.

Motion to Supplement

The amended bankruptcy petition is evidence that did not exist at the time the SDC filed its Motion to De-Designate. The fact that WSG had already filed a copy of the amended bankruptcy petition with the Judges as part of an unrelated motion does not render it any less “new” in relation to the Motion to De-Designate. The Motion to Supplement appropriately brings this evidence to the Judges’ attention and explains how it bears on the resolution of the Motion to De-Designate. The Judges **GRANT** the Motion to Supplement on that basis and will consider the amended bankruptcy petition in resolving the Motion to De-Designate.

Motion for Leave

Because the Motion for Leave was unopposed and the Judges find that WSG has demonstrated good cause for the relief it seeks, the Judges **GRANT** the Motion for Leave. The Judges accept the 29-page WSG Opposition and consider it in resolving the Motion to De-Designate.

Motion to De-Designate

The Judges decline the SDC’s invitation to rely on the *Hubbard* factors as a rubric to decide this issue. The language of the *Protective Order* governs the designation and de-designation of material as restricted. The Judges find that language to be clear and directly on point, and have no need to resort to extrinsic sources of legal authority to guide their interpretation.

The *Protective Order* defines “confidential information” as including “proprietary or private business information, in any form or format, the disclosure of which would damage the Producing Party, grant unfair advantage to the Receiving Party, or inhibit the ability of the Producing Party to obtain like information in the future.” *Protective Order* § III. The *Protective Order* excludes documents and information that “may be found in the public records of ... any ... federal or state governmental agency” or “was, is, or during the pendency of the subject proceeding becomes, legitimately, public information” *Id.* § IV. When a “Receiving Party,” such as the SDC, seeks de-designation of material that the “Producing Party” (WSG, in this case) designated restricted, “[t]he Producing Party shall bear the burden of justifying the limitation it seeks to impose.” *Id.* § V.D.

Denise Vernon’s former status as an owner of WSG is a matter of public record, both in the records of past CRB proceedings,⁷ and in several public filings in Texas. The information

⁷ See, e.g., [Multigroup Claimants’ Opposition to Settling Devotional Claimants’ Motion to Disqualify Multigroup Claimants and to Disallow Certain Claimants and Programs](#) at 17 (Oct. 26, 2016)

contained in Exhibit F thus falls under the *Protective Order*'s public records exemption. The SDC make this point in their Motion to De-Designate and WSG does not rebut it. Motion to De-Designate at 2. Arguably, WSG has acquiesced in the de-designation of Exhibit F. Regardless, it is not covered by the *Protective Order* and should be de-designated.

The amended bankruptcy petition discloses publicly the transfers of Alfred Galaz's interests in WSG and MGC to his grandson Ryan Galaz. Like Denise Vernon's former ownership, Ryan Galaz's present ownership is now a matter of public record. That brings the fact of Ryan Galaz's ownership within the *Protective Order*'s public records exemption and is sufficient grounds for de-designating Exhibits G and H.⁸

Even without the amended bankruptcy petition, there is sufficient grounds to de-designate Exhibits G and H. WSG bears the burden of demonstrating that the disclosure of the information in those exhibits "would damage the Producing Party, grant unfair advantage to the Receiving Party, or inhibit the ability of the Producing Party to obtain like information in the future." The sole reason that WSG gives for keeping Exhibits G and H confidential is Ryan Galaz's "desire" that his ownership not be a matter of public record. WSG has not alleged any basis on which the Judges could find that Ryan Galaz or WSG would be damaged by disclosure of Ryan Galaz's ownership. WSG has not met its burden under the *Protective Order* for resisting de-designation of Exhibits G and H.

The Judges reject WSG's argument that the Judges' orders relating to discovery in this proceeding stand for the proposition that WSG's (and MGC's) ownership are not subject to disclosure. To the contrary, in a separate order issued on the same day as the *Order on MGC MTC* cited by WSG, the Judges **granted** the SDC's request to compel MGC to provide documents relating to MGC's ownership and legal structure. *Order Granting in part Settling Devotional Claimants' Motion to Compel Production by Multigroup Claimants* (Sep. 14, 2016) (*Order on SDC MTC*). In the order cited by WSG, the Judges drew a distinction among the SDC's inquiry "into the legal structure and business relationships between and among MGC, the prior participant Worldwide Subsidy Group LLC dba Independent Producers Group (IPG), and members of the Galaz family" which were "founded in history and circumstantial evidence" with MGC's request, which merely mirrored the SDC's requests. *Order on MGC MTC* at 4. The Judges found that "[w]hen addressing the issues of these two particular participants with regard to business ownership, relationships, and asset transfers, sauce for the goose is not, *ipso facto*, sauce for the gander." *Id.* WSG's reliance on the *Order on MGC MTC* for the proposition that it is entitled to protect its ownership from disclosure is misplaced. The *Order on SDC MTC*, uncited by WSG, is directly on point and contradicts WSG argument.

The Judges also reject WSG's argument that the Privacy Act bars disclosure of Ryan Galaz's identity. By its terms, the Privacy Act only applies to records that are a part of a "system of records" as defined in the Act. The DC Circuit has interpreted that definition narrowly. "[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. Dept. of Commerce*, 83 F.3d 1453, 1460 (D.C. Cir. 1996). The records of CRB proceedings are not organized by the names of

⁸ The Judges need not reach the SDC's remaining arguments concerning the requirements of Texas and Massachusetts law. Nor do they need to reach the SDC's argument concerning waiver under the provisions of the *Protective Order*.

individuals, are not customarily accessed that way, and would, in fact, be difficult to access that way. The Judges find that the CRB's records of its proceedings is not a "system of records" as that term is used in the Privacy Act. The Privacy Act does not, therefore, apply to the CRB's records of its proceedings.⁹

For the foregoing reasons, the Judges **GRANT** the Motion to De-Designate. The Judges **ORDER** the parties to file, **no earlier than** ten days from the date of this Order, and **no later than June 30, 2020** the following unredacted documents as unrestricted documents:¹⁰

- WSG Response to Order to Show Cause (Unique Doc. # 21066);
- Motion to De-Designate (Unique Doc. # 21082);
- WSG Opposition (Unique Doc. # 21705);
- Alfred Galaz Declaration (Unique Doc. # 21757);
- Ruth Galaz Declaration (Unique Doc. # 21759);
- Ryan Galaz Declaration (Unique Doc. # 21760);
- Wesley Crowley Declaration (Unique Doc. # 21810);
- Raul Galaz Declaration (Unique Doc. # 21811);
- Motion for Sanctions (Unique Doc. # 21817);
- MGC Reply in Support of Response to Order to Show Cause (Unique Doc. # 21994);
- SDC Reply (Unique Doc. # 22019);
- SDC Opposition (Unique Doc. # 22024); and
- MGC Reply in support of Motion for Sanctions (Unique Doc. # 22035).

Motion for Sanctions

The Judges' resolution of the Motion to De-Designate renders the Motion for Sanctions moot. It would be inappropriate for the Judges to remove the public version of the Motion to De-Designate from the public record once the Judges have de-designated any assertedly confidential material that that filing contains (as well as the assertedly confidential material the

⁹ The Judges do not reach the SDC's additional argument that the CRB is not covered by the Privacy Act by virtue of its placement in the Legislative Branch.

¹⁰ The parties shall wait ten days from the date of this Order before filing in eCRB as public documents any and all of the thirteen documents listed, so that WSG has an opportunity to seek any interim relief by way of, *e.g.*, a temporary restraining order or a preliminary injunction, from a court of competent jurisdiction, preventing immediate refiling. WSG shall file in eCRB a copy of any judicial filing it has made in a court of competent jurisdiction seeking such relief, no later than 5 p.m. ten days from the date of this Order. Any other filing with the Judges regarding this Order or reasserting the issues decided herein shall not toll the ten-day period or otherwise delay the filings required by this Order.

The Judges issue the instant Order as a restricted document for the same purpose. The Judges will issue the Order as public document after the conclusion of the ten-day period, or after the resolution of any interim relief that WSG seeks.

restricted filing contains). Similarly, it would be inappropriate for the Judges to impose sanctions on the SDC for disclosing material that the Judges have found not to be confidential, at least absent a strong showing that the disclosure was deliberate, which is lacking on the present record.¹¹

The Judges, therefore, **DENY** the Motion for Sanctions.

SO ORDERED.

Jesse M. Feder
Chief Copyright Royalty Judge

DATED: June 12, 2020.
November 13, 2020 (public version).

¹¹ The Judges need not reach the merits of WSG's substantive arguments or the SDC's procedural defenses (*i.e.*, standing and waiver).