

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**Distribution of Digital Audio Recording Royalty
Funds**

**Docket No. 15-CRB-0011 DART
(SRF-CO) (2014)**

ORDER DISMISSING CLAIMS OF ERIC BURNS AND DR. DWIGHT SANDERS

On August 25, 2015, the Copyright Royalty Judges (“Judges”) ordered Eric Burns and Dr. Dwight Sanders to show cause why their respective claims in this matter should not be dismissed. The Judges issued these orders in response to challenges to those claims filed by the Alliance of Artists and Recording Companies (“AARC”), another participant in the proceeding. *See* Motion of AARC to Dismiss the Eric N. Burns 2014 DART Sound Recordings Fund/Copyright Owners Subfund Claim (June 26, 2015) and Motion of AARC to Dismiss Dwight Sanders’s 2014 DART Sound Recordings Fund/Copyright Owners Subfund Claim (June 10, 2015).

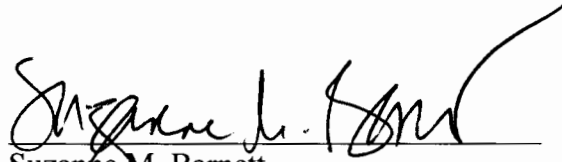
With respect to Mr. Burns’ claim, AARC contended that the claim should be dismissed because the basis for his claim—*Soul and Soledad*—was not a sound recording of a musical work embodied in a digital or analog musical recording but was rather a spoken word recording, which, according to AARC, is exempted from the Audio Home Recording Act of 1992, which authorizes DART royalties. *AARC’s Burns Motion* at 1-2. With respect to Dr. Sanders’s claim, AARC contended that he failed to identify any qualifying sound recording of a musical work embodied in a digital or analog musical recording that establishes a basis for his claim and therefore the claim is “incurably deficient.” *AARC’s Sanders Motion* at 2. The Judges preliminarily denied AARC’s motions to give Mr. Burns and Dr. Sanders an abundant opportunity to respond to AARC’s assertions.¹ The Judges ordered the claimants to respond to AARC’s assertions no later than August 31, 2015. Neither claimant responded.

Copyright Royalty Board Rule 360.22 sets forth the requirements for DART claims. 37 CFR 360.22. Rule 360.22(b)(6) requires that DART claimants identify “at least one musical work or sound recording embodied in a digital music recording or an analog musical recording” that was lawfully made and distributed or disseminated to the public during the period for which royalty payments are claimed. In its motions challenging the claims of Mr. Burns and Dr. Sanders, AARC contended that neither claimant provided this required element of a valid DART claim. The Judges provided each of the claimants an opportunity to respond to AARC’s challenges but neither chose to respond in the time allotted.

¹ Neither Mr. Burns nor Dr. Sanders, who appear to be *pro se* claimants, responded to AARC’s motions.

Therefore, the Judges hereby **DISMISS** the 2014 DART Sound Recordings Fund/Copyright Owners Subfund claims of Mr. Burns and Dr. Sanders for failing to satisfy a required element upon which a valid DART claim may be based. 37 CFR 360.22(b)(6).

SO ORDERED.



Suzanne M. Barnett
Chief Copyright Royalty Judge

DATED: September 11, 2015