

UNITED STATES COPYRIGHT ROYALTY JUDGES

In the Matter of

Distribution of 2011 Digital Audio
Recording Royalty Funds

Docket No. 2012-3 CRB DD 2011

ORDER GRANTING AARC'S REQUEST FOR PARTIAL DISTRIBUTION OF
2011 DART SOUND RECORDINGS FUNDS

On July 11, 2012, the Alliance of Artists and Recording Companies ("AARC") and certain claimants with which it has reached agreement (collectively the "Settling Claimants"), filed, pursuant to Section 801(b)(3)(C) of the Copyright Act, a *Notice of Settlement and Request for Partial Distribution of the 2011 Sound Recordings Fund Featured Recording Artists and Copyright Owners Subfund Royalties*. A notice soliciting comments on the Notice and Request was published in the Federal Register on August 7, 2012. 77 FR 47120. The Judges received a single comment from the Settling Claimants, which supported their own request and reiterated the Settling Claimants willingness to comply with the conditions for receiving a partial distribution of royalties under Section 801(b)(3)(C) of the Copyright Act.

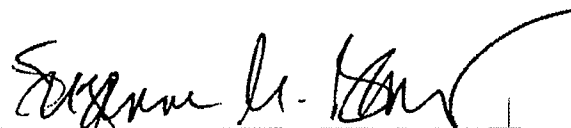
Finding no opposition to the Settling Claimants' request, it is **GRANTED**.

IT IS ORDERED that 98% of the DART royalties held in the 2011 Sound Recordings Fund (Copyright Owners Subfund and Featured Artist Subfund) shall be distributed to AARC as the designated agent for the Settling Claimants to be distributed among the Settling Claimants pursuant to the terms of the settlement that they have reached.

The Copyright Office shall make such a distribution to AARC as the designated agent of the Settling Claimants **PROVIDED THAT** AARC, in its capacity as the designated agent, provides to the Copyright Office a signed agreement prepared by the Copyright Royalty Board stating that any overpayment that results from the distribution of these funds shall be repaid to the Copyright Office with interest according to the amount that would have accrued if the principal had remained in the fund. In addition, all pertinent information to effect the transfer of

funds must be provided to the Licensing Division of the Copyright Office no later than October 18, 2012. The distribution shall take place on or after October 25, 2012.

SO ORDERED.



Suzanne M. Barnett
Chief, U.S. Copyright Royalty Judge

DATED: September 20, 2012

AGREEMENT

This Agreement is made and entered into this _____ day of September, 2012 by the Alliance of Artists and Recording Companies ("AARC") as the designated agent for the Settling Claimants and the Library of Congress, Copyright Office, Washington, D.C. (hereinafter "Copyright Office").

WHEREAS, under the provisions of 17 U.S.C. § 1005, funds designated for royalty claimants and deposited with the Copyright Office are deposited by the Copyright Office with the U.S. Treasury and invested in interest-bearing funds for later distribution by the Librarian of Congress upon authorization by the Copyright Royalty Judges; and

WHEREAS, pursuant to 17 U.S.C. § 801(b)(3)(C), the Copyright Royalty Judges at any time after the filing of claims under 17 U.S.C. § 1007, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution, and all such claimants (1) agree to the partial distribution; (2) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of fees made under 17 U.S.C. § 801(b)(3)(B); (3) file the agreement with the Copyright Royalty Judges; and (4) agree that such funds are available for distribution; and

WHEREAS, the Settling Claimants did make such motion and a request for responses to the motion was published in the Federal Register; and

WHEREAS, the Copyright Royalty Judges concluded in their September 20, 2012 *Order Granting AARC's Request for Partial Distribution of 2011 DART Sound Recordings Funds*, Docket No. 2012-3 CRB DD 2011 (hereinafter "Partial Distribution Order"), that no claimant entitled to receive such funds has stated a reasonable objection to the proposed partial distribution; and

WHEREAS, the Settling Claimants agree to the proposed partial distribution and that such funds are available for distribution; and

WHEREAS, the Settling Claimants have expressed a willingness to sign an agreement obligating them to return any excess amounts (including interest according to the amount that would have accrued if the principal had remained in the fund) to the extent necessary to comply with the final determination of fees made under 17 U.S.C. § 801(b)(3)(B) and to file such agreement with the Copyright Royalty Judges;

NOW THEREFORE, in consideration of the above, the Settling Claimants agree as follows:

- (1) On or after October 25, 2012, the Copyright Office will make a partial distribution of 98 percent of the DART royalties held in the 2011 Sound Recordings Fund (Copyright Owners Subfund and Featured Artist Subfund), approximately \$[], to the Settling Claimants in the manner specified in the Partial Distribution Order; and

- (2) The Copyright Office will withhold the remaining 2 percent of the DART royalties held in the 2011 Sound Recordings Fund (Copyright Owners Subfund and Featured Artist Subfund) to settle all outstanding claims with respect to royalties in the DART 2011 Sound Recordings Fund.
- (3) In the event that the cost of any proceeding convened for the purpose of determining the distribution of the DART 2011 Sound Recordings Fund, including any award or awards to a claimant or claimants made by competent authority (*i.e.*, the Copyright Royalty Judges or the United States Court of Appeals for the District of Columbia Circuit), exceeds the amount of the DART 2011 Sound Recordings Fund withheld in accordance with the Partial Distribution Order, the Settling Claimants agree to remit, will remit, and hereby agree to and will bind, if and as necessary, any successor(s) in interest or distributee(s) to remit, to the Copyright Office within thirty (30) days of the date of notification from the Copyright Office that insufficient funds exist to cover the cost of the proceeding or make a determined award or awards to a claimant or claimants, an amount to be specified by the Copyright Office to cover the deficiency.

The undersigned hereby certifies that he/she is the duly authorized representative or agent for the Settling Claimants, and has the express authority to enter into this agreement on behalf of the identified claimant group(s). Penalties for fraud and false statements are set forth in 18 U.S.C. § 1001 et seq.

Agent for Settling Claimants: **Alliance of Artists and Recording Companies**

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

I certify that I am a "Library Officer" who has authority to enter into this Agreement on behalf of the Library of Congress.

Library Officer Signature

James B. Enzinna
Chief, Licensing Division

The signed Agreement **must** be returned to the below address by [date].

Hand deliver to: Library of Congress
James Madison Memorial Bldg.
Copyright Licensing Division
Room LM-401
101 Independence Ave., S.E.
Washington, D.C. 20557-6400

Keys, LaKeshia

From: Strasser, Richard
Sent: Monday, September 24, 2012 11:30 AM
To: Murzinski, Vincent
Cc: Keys, LaKeshia
Subject: FW: 2012-3 CRB DD 2011 Order
Attachments: 9-20-12 Order Granting AARC's Request for Parital Distibution of 2011 DART SRF.pdf; Draft DART Distribution Payback Agreement 092412 draft.doc

The order and draft agreement are attached.

From: Keys, LaKeshia
Sent: Thursday, September 20, 2012 4:36 PM
To: crb
Subject: 2012-3 CRB DD 2011 Order

Attached please find the 2012-3 CRB DD 2011 Order Granting AARC's Request for Partial Distribution of 2011 DART Sound Recording Funds.

Please reply back as confirmation that you received this email.

Thanks,
Copyright Royalty Board