

UNITED STATES COPYRIGHT ROYALTY JUDGES

In the Matter of }
 }
Distribution of 2008 Digital Audio } Docket No. 2009-3 CRB DD 2008
Recording Royalty Funds }
 }
_____ }

ORDER GRANTING AARC'S REQUEST FOR
PARTIAL DISTRIBUTION OF 2008 DART SOUND RECORDINGS
FUND/COPYRIGHT OWNERS SUBFUND ROYALTIES

On July 21, 2009, the Alliance of Artists and Recording Companies and certain claimants with which it has reached agreement (collectively the "Settling Parties"), submitted a *Notice of Settlement and Request for Partial Distribution of the 2008 Sound Recordings Fund/Copyright Owners Subfund Royalties*. The Settling Parties submitted their request pursuant to 17 U.S.C. § 801(b)(3)(A), which authorizes the Copyright Royalty Judges to make a distribution of royalties under section 1007 of the Copyright Act to the extent that the Judges find that the distribution of such fees is not subject to controversy.

The Settling Parties request 98% of these royalties, noting that they represent all claimants to these funds, except Matthew Primous and Eugene "Lambchops" Curry. The Settling Parties assert that they are entitled to 98% of the applicable royalties because, they contend, SoundScan data indicates that neither Mr. Primous nor Mr. Curry had any sales in the applicable period.

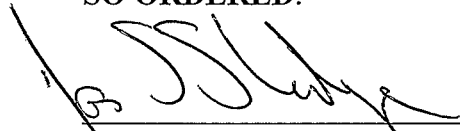
On August 3, 2009, Mr. Primous filed an objection to AARC's request. Mr. Primous claims, among other things, that he reported to AARC over 50 licensing agreements that Mr. Primous entered into with the American Society of Composers, Authors, and Publishers, which, he contends, AARC represents. Mr. Primous states that he would "like to settl[e] for all my royalties [for] at least \$500,000." It is unclear from his filing what the basis is for Mr. Primous' belief that he is entitled to \$500,000 in royalty payments, a claim that is facially implausible given that the entire amount in the applicable subfund is approximately \$483,000.

On August 10, 2009, Mr. Curry submitted an objection to AARC's request.¹ Mr. Curry disputes AARC's contention that he has no sales, contending that SoundScan is inaccurate. Mr. Curry asserts that he had sales of at least 1 million units, although he does not state for what time period. Although Mr. Curry claims that he is entitled to "a portion of that fund to be determined by the Board," he does not expressly oppose AARC's contention that the Settling Parties are entitled to at least 98% of the royalties in the 2008 Copyright Owners Subfund. Therefore, the Judges determine that no controversy exists with respect to 98% of the royalties in the 2008 Copyright Owners Subfund.

¹ Mr. Curry's request was further to a Petition to Participate that he filed on August 3, 2009. While that petition did not include a docket number, Mr. Curry subsequently informed staff of the Copyright Royalty Board that he intended the Petition to serve as a response to AARC's request.

Wherefore, **IT IS ORDERED** that the Settling Parties' request for distribution of 98% of the Copyright Owners Subfund of the 2008 DART Sound Recording Fund under 17 U.S.C. § 801(b)(3)(A) **IS GRANTED. IT IS FURTHER ORDERED** that the royalties be distributed to AARC for further distribution to the Settling Parties on or after September 17, 2009, provided that the Licensing Division of the Copyright Office receives all pertinent information to effect the transfer of funds no later than 7 business days before the date of distribution.

SO ORDERED.



James Scott Sledge
Chief U.S. Copyright Royalty Judge

DATED: August 19, 2009