

**Before the
COPYRIGHT ROYALTY JUDGES
The Library of Congress**

<i>In re</i> DISTRIBUTION OF CABLE ROYALTY FUNDS	CONSOLIDATED DOCKET NO. 14-CRB-0010-CD/SD (2010-13)
DISTRIBUTION OF SATELLITE ROYALTY FUNDS	
<i>In re</i> DISTRIBUTION OF SATELLITE ROYALTY FUNDS	CONSOLIDATED DOCKET NO. 14-CRB-0011-SD (2010-13)

**ORDER GRANTING MPA MOTION TO LIFT STAY
OF FINAL DISTRIBUTION ORDER**

On February 6, 2020, the MPA-Represented Program Suppliers (MPA) filed with the Copyright Royalty Judges (Judges) a Motion to Lift Stay of Final Distribution Order ([Motion](#)). Multigroup Claimants (MGC) filed its timely [Opposition](#) and MPA filed its timely [Reply](#) in accordance with the Judges’ [Order for Accelerated Briefing](#). MPA asks the Judges to lift their *Order Staying Order of Final Distribution of 2010-13 Satellite Royalty Funds to MPA* (Jan. 16, 2020) ([Stay Order](#)). For the reasons set forth below, the Judges **GRANT** the motion.

Background

MPA filed a Motion for Final Distribution of 2010-13 Satellite Royalty Funds ([Final Distribution Motion](#)) with the Judges on January 10, 2020. MPA argued that all controversies relating to the 2010-13 satellite royalties for the Program Suppliers category had been resolved following settlement of the allocation phase and dismissal of MGC’s appeal of the Judges’ interlocutory rulings in the distribution phase. *See* Final Distribution Motion at 1. The Judges issued their *Order Granting MPA’s Motion for Final Distribution of 2010-13 Satellite Royalty Funds* ([Final Distribution Order](#)) on January 13, 2020.

On January 16, 2020, the U.S. Department of Justice informed the Judges that MGC had filed a Petition for Panel Rehearing and/or Petition for *En Banc* Review (Petition) the previous day. The Judges responded by issuing the *Stay Order sua sponte*.¹ The Judges stayed the *Final Distribution Order* “pending resolution of MGC’s Petition for rehearing and any further action by the” United States Court of Appeals for the District of Columbia Circuit (DC Circuit). *Stay*

¹ MGC filed a [Motion for Order to Vacate Final Distribution to MPA of 2010-2013 Satellite Royalty Funds](#) while the *Stay Order* was in process. The Judges **DENY** that motion as moot.

Order at 1. The DC Circuit denied the Petition on February 5, 2020, and issued its mandate on February 18, 2020.

Arguments

MGC opposes lifting the stay because it “is inclined” to pursue its objections to the Judges’ interlocutory rulings in the distribution phase “before a court that has jurisdiction to review such objections,” and will likely do so “no later than March 27, 2020.” Opposition at 2-3. MGC further argues that, if the Judges do lift the stay, they must take the precaution of requiring MPA to represent that it will return any royalties “that are later deemed to have been inappropriately distributed” to MPA. *Id.* at 3. MGC also states that any order for distribution to MPA must be accompanied by an order for distribution to MGC. *See id.*

In reply, MPA argues that the Judges’ stated rationale for staying the distribution order no longer holds now that the DC Circuit has denied the Petition. *See Reply* at 1-2. Moreover, MGC’s “unspecified threats of future litigation” are not a reasonable basis for continuing the stay. *Id.* at 2. As to MGC’s assertion that the Judges must distribute royalties to MGC if they distribute royalties to MPA, MPA points out that MGC has not made a motion for final distribution of funds allocated to the Program Suppliers category. *See id.* at 2-3. Finally, MPA argues that there is no need to condition distribution on a repayment promise because MPA is already bound by a repayment agreement in this proceeding. *See id.* at 3-4.

Discussion

MGC’s appeal before the DC Circuit has run its course resolving the controversies regarding distribution of 2010-13 satellite funds in the Program Suppliers category. The funds are, therefore, subject to distribution in accordance with 17 U.S.C. § 801(b)(3)(A) and the *Final Distribution Order*. MGC’s deliberation as to whether to pursue its objections in an unspecified venue at some indefinite point in the future is an insufficient basis to continue the stay and further delay distribution of royalties to MPA. MGC cites no statutory or regulatory authority for the proposition that the Judges must withhold distribution of funds while MGC considers its options for pursuing its objections outside the process set forth in section 803(d) of the Copyright Act. The Judges are not aware of any such authority.

MGC’s statement that “[a]ny order for distribution to the MPA mandates distribution to Multigroup Claimants on the same basis, at the same time” is unsupported by any citation to statutory or regulatory authority. To the extent that the statement can be interpreted as a request for final distribution, the Judges reiterate that a request for relief that is embedded in a responsive document “rather than in the form of a motion or cross-motion does not present the issue for full consideration to the Judges.” *Distribution of the 2000, 2001, 2002 and 2003 Cable Royalty Funds*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II), 78 Fed. Reg. 64984, 64988 n.18 (Oct. 30, 2013). MGC has not filed a motion for final distribution of satellite funds in the Program Suppliers category. The question of MGC’s final distribution of royalties in this category is not before the Judges.

Finally, the Judges agree with MPA that conditioning its distribution on a further promise of repayment would be “redundant” and “unnecessary.” Reply at 3. MPA has already entered into repayment agreements pertaining to each of the funds in this proceeding. Those agreements, which obligate MPA to return any overpayment of royalties with interest, remain in force. *See Order Granting Final Distribution of 2008 Satellite Royalty Royalties for the Devotional*

Category, Docket Nos. 2012-6 CRB CD 2004-09 (Phase II) & 2012-7 CRB SD 1999-2009 (Phase II), at 2 n.3.

Conclusion

The Judges, finding that the conditions that warranted granting the stay of their *Final Distribution Order* no longer pertain, and finding no merit to MGC's objections, hereby **GRANT** the Motion. The stay imposed by the *Stay Order* is hereby lifted and the *Final Distribution Order* is in full force and effect.

SO ORDERED.

Jesse M. Feder
Chief Copyright Royalty Judge

DATED: February 24, 2020.